

STATE OF ARIZONA
Low-Income Housing Tax Credit Program

2011 QUALIFIED ALLOCATION PLAN

Table of Contents

1.	INTRODUCTION	
	1.1 Background	1
	1.2 General and Specific Goals	1-3
2.	DEFINITIONS	3-11
3.	APPLICATIONS FOR TAX CREDITS	
	3.1 Amount and Allocation of State's Annual Credit Authority	11
	3.2 Tax Credit Reservation	11-12
	3.3 Limitation on reservation of Tax Credits	12-13
	3.4 Application Deadlines, Timetable and Application Submission Location	13
	3.5 Application Format	13
	3.6 Eligibility Requirements	13-14
	3.7 2011 Set-Asides	14-15
	3.8 2011 Project Scoring	15-17
	3.9 Threshold	17-35
4.	TAX CREDITS FOR DEVELOPMENTS FINANCED WITH STATE VOLUME CAP BOND AUTHORITY	35-37
5.	GENERAL REGULATIONS	
	5.1 False Filing	37
	5.2 Satisfactory Progress	37-38
	5.3 Change of Ownership	38

5.4	Revocation of a Notice of Eligibility for 4% Tax Exempt Bond Credits, Reservation or Carryover Allocation for 9% Tax Credits	38-39
5.5	Disqualification	39
5.6	Extended Use Period	39-40
5.7	Material Changes	40-41
5.8	Distribution of Units	41
5.9	Amendments to the QAP	41
5.10	Disclaimer and Limitation of Liability	41-42
6.	FINAL TAX CREDIT ALLOCATION	
6.1	Final Tax Credit Allocation and First Year Certification by ADOH	42
6.2	First Year Certification and Issuance of Final Allocation (IRS Form 8609)	42-44
6.3	Final Allocation Underwriting	44
7.	FEES	
7.1	Tax Credit Application Fee	45
7.2	Gap Financing Review Fee	45
7.3	Building Permit Extension Fee	45
7.4	Reservation Fee and Final Allocation Fee	45
7.5	Tenant Ownership Fees	45
7.6	Carryover Allocation Late Fees	45-46
7.7	Administration Fees	46
7.8	Compliance Monitoring Fees	46
8.	UNDERWRITING	
8.1	Calculation of Tax Credits	46-47
8.2	Underwriting Requirements	47-51
9.	PROJECT COMPLIANCE MONITORING	
9.1	Project Compliance Monitoring	51
9.2	Compliance Monitoring Procedure	52-57

EXHIBITS

All the following exhibits and forms are included with the LIHTC Application. Exhibits D & L are available on the website as individual exhibits.

ADOH will provide a complete and updated list of Exhibits in the Final 2011 QAP.

DRAFT

1. INTRODUCTION

1.1 Background

(A) The federal low-income housing tax credit (“LIHTC” or “tax credit”) ¹ program was established by the Tax Reform Act of 1986, codified in Section 42 of the Internal Revenue Code of 1986, as amended (“IRC Section 42”) to encourage construction and rehabilitation of low-income rental housing. The Arizona Department of Housing (“ADOH”) is the housing credit agency responsible for allocating tax credits to owners of qualifying residential rental projects. The Revenue Reconciliation Act of 1989 amended IRC Section 42 by adding Section 42(m), which requires allocating agencies to allocate low-income housing tax credits pursuant to a Qualified Allocation Plan (“QAP,” “Plan,” or “Allocation Plan”).

IRC Section 42(m) (1) provides as follows:

- (1) Qualified Allocation Plan. For purposes of this paragraph, the term ‘Qualified Allocation Plan’ means any plan--
 - (a) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,
 - (b) which also gives preference in allocating housing credit dollar amounts among selected projects to:
 - (i) projects serving the lowest income tenants, and
 - (ii) projects obligated to serve qualified tenants for the longest periods,
 - (iii) projects which are located in Qualified Census Tracts (as defined in subsection (d)(5)(c) and the development of which contributes to a concerted community revitalization planand
 - (c) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of noncompliance with the provisions of this section which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.
- (2) Certain Selection Criteria Must Be Used. The selection criteria set forth in a Qualified Allocation Plan must include the following:
 - (a) project location,
 - (b) housing needs characteristics,
 - (c) project characteristics including whether the project includes the use of existing housing as part of a community revitalization plan,
 - (d) sponsor characteristics,
 - (e) tenant populations with special housing needs,
 - (f) public housing waiting lists,
 - (g) tenant populations for individuals with children, and
 - (h) projects intended for eventual tenant homeownership.

¹ The defined terms that are used in this Plan are in Section 9, Definitions. Terms that are defined in Section 9 are capitalized with the exception of commonly used terms such as “applicant” and “project.”

3) Application to Bond Financed Projects--Section 4 shall not apply to any project unless the project satisfies the requirements for Allocation of a housing credit dollar amount under this Plan.

(B) There are two methods for obtaining a tax credit Allocation pursuant to this plan: (i) through a competitive application process and (ii) tax-exempt bond financing.

(C) Changes to the Plan.

(1) Annual Plans. **DISCLAIMER:** ADOH may submit a new proposed plan with substantial changes for public review and comment from time to time. ADOH may add, delete, or substantially change eligibility requirements, set-asides, competitive point categories, and underwriting requirements for a new plan.

(2) Changes to Approved Plans. As provided by I.R.C. § 42(m)(1)(A)(iv) ADOH may in its discretion make significant changes to this Plan. Although ADOH will make every effort to avoid substantial changes to the Plan after a competitive round has been announced such changes may be necessary from time to time to respond to changing market conditions, address critical needs, and maximize the allocation of tax credits. ADOH may conduct one or more competitive rounds under a plan upon appropriate notice to the public.

(3) Should changes to this Plan or other tax credit programs occur, ADOH shall post a Public Notice on the ADOH website and email a notification of the same to all Applicant's.

1.2 General and Specific Goals

(A) **General Goals.** For projects that are not financed through tax-exempt bonds the LIHTC program is a competitive program. See Section 3 for the process and requirements for tax credits to projects financed by tax-exempt bonds. In furtherance of the statutory provisions affecting the program, ADOH has established the following general goals for allocating tax credits in Arizona:

- (1) To maximize the number of affordable rental housing units added to the existing housing stock;
- (2) To develop affordable rental housing units in areas with the highest market demand while avoiding concentration of affordable properties in distressed areas;
- (3) To develop affordable rental housing units necessary to satisfy a critical need in an area;
- (4) To allocate tax credits to projects that provide the greatest overall public benefits;
- (5) To encourage development and preservation of appropriate rental housing for people and families that need governmental assistance to find and maintain suitable, habitable, and affordable rental housing in the private marketplace;
- (6) To enable substantial rehabilitation of existing rental housing in order to prevent losses to the existing supply of affordable units;
- (7) To prevent the loss from the existing stock of low-income rental housing of those units under expiring contracts with federal agencies or subject to prepayment which, without the Allocation of tax credits, would be converted to market rate units;
- (8) To maximize the utilization of tax credits;

- (9) To provide an equitable distribution of tax credits across the State;
- (10) To provide opportunities for participation in the tax credit program to all qualified sponsors of low-income rental housing; and,
- (11) To provide local government entities with notice and opportunity to comment on tax credit development proposed within their jurisdictions.

(B) From year to year, the State may supplement these general goals with more specific goals in order to meet specific affordable housing needs.

(C) **Specific Goals.** In addition, in allocating tax credits, ADOH seeks to achieve specific goals. These are:

- (1) To use tax credits in connection with rental housing "projects serving the lowest income tenants," see I.R.C. §42(m)(1)(B)(ii)(I);
- (2) To use tax credits in connection with rental housing "projects obligated to serve qualified tenants for the longest periods," see I.R.C. §42(m)(1)(B)(ii)(II);
- (3) To make tax credit funding available to proposals to serve low-income populations -- including families with children, homeless persons, veteran's, and elderly citizens;
- (4) To hold competition among only those projects considered sound investments of public funds;
- (5) To expend the minimum amount of public funds necessary to accomplish program goals;
- (6) To administer the LIHTC program in a manner that encourages timely project completion and occupancy; and,
- (7) To encourage the highest available quality and design standards for projects financed with tax credits.

2. **DEFINITIONS**

The following definitions shall apply to both the QAP and LIHTC application for the year 2011 Program

"10% Cost Test" refers to the requirement of IRC Section 42(h)(1)(E)(ii) that 10% of the reasonably expected basis in the project have been incurred within one year from the date of Allocation.

"ADOH" means the Arizona Department of Housing, which is the housing credit agency authorized to allocate federal low-income housing tax credits in the State of Arizona pursuant to A.R.S. Section 35-728(B).

"Administration Fee" means \$1,000 fee due from the Applicant in the event the Applicant requests an interim underwriting or ADOH requires an additional underwriting due to, among other things, a Material Change.

"Affiliate" means any Person, who directly or indirectly, owns or controls another person by having any family relationship, ownership interest or a Controlling Interest in that person.

"Affordable Housing" means a multifamily residential rental development using one or any combination of the following funding sources: Low Income Housing Tax Credits; HUD HOME Investment Partnerships, 202, 207, 220, 223, 231, 811, and HOPE VI programs; Native American Housing Assistance and Self Determination Act; USDA RD 514 and 515 programs; or the Arizona Housing Trust Fund.

“Allocation” means the award of tax credits by ADOH to the Owner of an LIHTC project. The Allocation is set forth in a binding agreement between ADOH and the Owner.

“Allocation Year” means the calendar year for the current annual allocation authority for which LIHTC applications are submitted.

“Applicant” means an existing legal entity submitting an application for LIHTC for a project pursuant to the Allocation Plan.

“Appraisal” when referring to a submittal required by this Plan means: (1) an estimate of the value of project real property be based on market information including comparable properties that is current through the period ending no earlier than six months before the deadline for submittal of the application that is (2) be prepared in accordance with the Uniform Standards of Appraisal Practice by an analyst who is not associated with the development team, bond issuer or user of bond proceeds and who is authorized to render the appraisal in Arizona. An appraisal that deviates from the requirements of this paragraph must provide a detailed explanation of why the deviation cannot be avoided.

“Area median gross income” or “AMGI” means the measure of household income, adjusted for family size, used by the IRS as a reference in establishing income levels for the LIHTC Program (e.g., “60 percent of AMGI,” “50 percent of AMGI”) and as the base in calculations that yield maximum rents by number of bedrooms. See the “Imputed Incomes/Allowable Rents” tables appended to this Plan at Exhibit H.

“A.R.S.” means the Arizona Revised Statutes, as amended from time to time.

“Award Letter” means a letter from a governmental or quasi-governmental agency, e.g., the Federal Home Loan Bank, stating that funds in a specific amount are awarded or are to be awarded to the project in a specific time frame.

“Blight” means areas and neighborhoods with obsolete or inadequate infrastructure, unsanitary and unsafe conditions, as well as areas where a large number of building structures are dilapidated or deteriorated are generally described.

“Blighted Structure” means a structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

“Builder” means the general contractor that is a member of the project’s Development Team.

“Capital Needs Assessment (“CNA”) means the assessment as set forth in Section 3.9(AB)(2)(C).

“Carryover Allocation” means an Allocation made to the project if the project will not be Placed in Service by close of the calendar year of the Allocation.

“Carryover Allocation Fee” means an additional fee of \$250 per day if the information required under Section 7.6 of this Plan is submitted after December 1 of the Allocation year.

“Census Designated Place (CDP)” means a statistical entity, defined for each decennial census according to Census Bureau guidelines, comprising a densely settled concentration of population that is not within an incorporated place, but is locally identified by a name. CDPs are delineated cooperatively by state and local officials and the Census Bureau, following Census Bureau guidelines. Beginning with Census 2000 there are no size limits.

“Co-Developer” means one of two or more developers of the same project.

“Code” and “IRC” mean the Internal Revenue Code.

“Common Area Facilities” means on-site laundry facilities, site office, maintenance and storage areas, community rooms, community service facilities as described in Exhibit D.

“Commitment Letter” means a written commitment from a lender or other provider of funds, representing a commitment to provide financing and stating the amount, interest rate, fees, term of the loan, debt service coverage, security, and repayment terms, subject only to reasonable, commercially-acceptable contingencies.

“Community-Based Non-Profit” means an organization qualified under IRC Section 501(c)(3) or (4), that has as one of its approved exempt purposes the provision of affordable housing, and its membership is drawn from and representative of the community it serves.

“Community Facility” means community room, clubhouse, recreation center or the like. Lobbies and laundry facilities shall not be considered within the scope of this definition.

“Community Services Facility” means a facilities building as described in IRC Section 42(d)(4)(C)(ii). “Compliance Period” means the compliance period for a building begins with the first year of the building’s Credit period, the first taxable year in which the Owner claims tax credits for the project of which the building is a part, and lasts for 15 consecutive taxable years.

“Community Revitalization” means the strategic process of transforming Blight, Blighted Structures and Severely Distressed Public Housing in neighborhoods and communities that are located within a geographic area or on a parcel of property for which a specific housing priority area has been established by the local, federal or state government, and is memorialized in a local affordable housing plan or a comparable document.

“Compliance Manual” means the LIHTC Program Compliance Manual developed by ADOH.

“Consultant” means an advisor to the Development Team or to any member of the Development Team.

“Controlling Interest” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the means of ownership, position, contract, or otherwise.

“Council of Governments Regions” means one of the four rural Councils of Governments in Arizona serving regional planning districts. The four rural councils and the districts they serve are: Northern Arizona Council of Governments (**NACOG**), serving the Region 3 Counties of Apache, Coconino, Navajo and Yavapai Counties; Western Arizona Council of Governments (**WACOG**), serving the Counties of LaPaz, Mohave and Yuma in Region 4; Central Arizona Association of Governments (**CAAG**), serving Region 5: the Counties of Gila and Pinal; and South Eastern Arizona Governments Organization (**SEAGO**), serving Region 6, the counties of Cochise, Graham, Greenlee and Santa Cruz.

“Deadline Date” means on or before 5:00 p.m. Mountain Standard Time of the day designated by ADOH as the last day to submit an application for a competitive allocation round.

“Deferred Developer Fee” means a certain sum of money owed to the Developer and evidenced by a promissory note, partnership agreement, or other written agreement acceptable to ADOH, such fee to be repaid subject to the applicable project’s cash flow after payment of operating expenses of the project and after payment of debt service for all superior liens.

“Determination of Qualification” means a letter issued by ADOH in accordance with IRC Section 42(m), that indicates that the project, which has utilized tax-exempt financing, qualifies for an amount of tax credits and is in compliance at the time of the letter with all rules established by this Plan.

“Determination of Qualification Fee” means the fee payable after ADOH determination that an application represents a feasible and viable project with a likelihood of completion and it is payable prior to the issuance of a Determination of Qualification or Reservation. (See Section 6.4)

“Developer” means any legal entity or person, which provides or arranges for design, financing, or construction services in connection with a Project.

“Development Team” means the entities and professionals assembled to develop and manage the project, typically comprising the Developer(s), general partner, contractor, property management company, tax attorney, certified public accountant, and all other project Consultants.

“Direct Construction Costs” means the costs to construct the project which matches the Construction Contract and line 52 on Form 3 “Total Direct Construction Costs”

“Elderly Family” means a family whose head or spouse or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aids.

“Employee Unit” means a Unit set aside by project management as a Residential Rental Unit for a manager, or a maintenance person, and/or a security officer (see Arizona Department of Housing LIHTC Compliance Manual, Section 3.2.1.). ADOH considers Residential Rental Units as Low-Income Units. Industry standards indicate that one manager’s Unit and one maintenance person’s Unit are needed per one hundred units. One security officer’s Unit per project is allowed if management can show that the Unit is reasonably required. Project management, in its discretion, may designate such units for employees or return them to service as Low-Income Units as circumstances dictate. In accordance with IRS Revenue Ruling 92-61, while these units are employee units they shall be included in the eligible basis of the building but shall be excluded from both the numerator and the denominator of the applicable fraction. In mixed-income properties, ADOH assumes that any employee units are taken from the low-income rather than the market-rate side.

“Extended Use Agreement” means the “Extended Low-Income Housing Commitment” required by Code Section 42(H)(6) which shall be in the form of a Declaration of Affirmative Land Use and Restrictive Covenants Agreement (commonly referred as the “LURA”) that runs with the land on which the project is developed, restricting the use of land by the Owner and its successors to the terms and conditions of the project, as approved by ADOH.

“Extended Use Period” means the term of the Extended Use Agreement and shall be a minimum of 30 years.

“Extended Warranty” means any construction warranty with an initial term of two years or more.

“Federal Subsidy” for the purposes of tax credits, Federal Subsidies include federal grants and below market rate federal loans through programs such as those administered by HUD (with some exceptions for CDBG and HOME) and Rural Development, tax-exempt financing and other locally administered low-interest loans or grants from federal sources. Use of these financing sources may require reductions in eligible basis or reductions in a project’s maximum Applicable Credit Percentage (see IRC Section 42(d)(5)(A) and 42 (i)).

“Final Allocation Fee” means the fee payable upon the issuance of IRS Form 8609 equal to 2% of the Allocation or any additional outstanding fees owed to ADOH.

“Financial Statements” means a complete and accurate income statement, cash-flow statement, balance sheets and accompanying notes prepared according to Generally Accepted Accounting Principles.

“Financial Beneficiary” means a Person who is to receive a financial benefit of: a) 3% or more of total estimated project cost if total estimated project cost is \$5 million or less, and b) 3% of the first \$5 million and 1% of any costs over \$5 million if total estimated project cost is greater than \$5 million. This definition does not include the Owner of the tax credit project unless the Owner is also the Developer or the Builder and meets the above financial requirements.

“Funding Gap” means the amount by which projected development funds exceed projected available funds.

“Gap Financing” means funding through one or more programs administered by ADOH that may be available to a project to fill the Funding Gap.

“HERA” refers to the *Housing and Economic Recovery Act of 2008*, Pub.L. 110-289, and its changes to the LIHTC program.

“Historic Preservation Project” means: (i) a structure individually listed in the National Register of Historic Places, or; (ii) a structure certified by the National Parks Service as contributing to a Register District. A Register District is a designated area listed in the National Register, or listed under state statute or local ordinance as substantially meeting the requirements for listing of districts in the National Register.

“HUD” means the United States Department of Housing and Urban Development.

“Identity of Interest” means any financial or ownership interest, direct or indirect, between Developer and another Person.

“LIHTC” means the Low-Income Housing Tax Credit program, a program of the Internal Revenue Service that provides federal income tax credits to owners of qualifying residential rental projects.

“Letter of Interest or Intent” means the documentation addressed to the Applicant/Developer of an interest or intent to provide funding, setting forth the writer’s intention to negotiate the financing and stating the amount, interest rate, security, repayment terms and including the minimum debt service coverage ratio and loan-to-value ratio used by the lender to size the financing, as applicable. If the sole Developer of the project is a non-profit organization, the Letter of Interest or Intent from the investment syndicator must state that the non-profit holds the right of first refusal to acquire the project following the fifteen-year compliance period. Such letters or documents may be subject to reasonable, commercially acceptable contingencies, as determined by ADOH in its sole discretion.

“Local Government” means the governing body of the city, town, county or tribal government having jurisdiction over the real property upon which the project will be located.

“Low-Income Unit” means any Unit in a project if the Unit is rent restricted (as defined in IRC Section 42 (g)(2)) and the individuals occupying such Unit meet the income limitation applicable under IRC Section 42 (g)(2) for the project.

“Major Life Activities” for the purpose of the American Disabilities Act means “functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” See 45 CFR § 84.3(j)(2)(ii).

“Market Demand Study” means a third party report that outlines the overall market demand for a project within a defined market area and identifies, with significant detail, the current supply of similar units, demographics, and economics contained within the market area.

“Material Changes” are as described in Section 4.7.

“Maximum Tax Credit Reservation” means a maximum Reservation for any single project or Scattered Site project. One Owner, Developer, Co-Developer or Affiliate of the Developer or Co-Developer with multiple projects cannot exceed a total of \$2.7 million dollars in any Allocation year.

“Metropolitan Statistical Area” is used in this Plan as defined by the Office of Management and Budget (OMB) “Standards for Defining Metropolitan and Metropolitan Statistical Areas” published on December 27, 2000, in the Federal Register (65 FR 82228 - 82238).

“Operating Costs” means the fixed and variable expenses of operating the project, including but not limited to taxes, insurance, utilities, management, and replacement reserves, but excluding debt service.

“Owner” means the legal entity that ultimately owns the project and to which tax credits will be allocated.

“Person” means an individual, partnership, corporation, trust or other entity.

“Physically Disabled Persons” means people who have physical impairments that substantially limit one or more major life activities as defined in 45 CFR § 84.3(j)(2)(ii) or have a record of such impairment.

“Placed in Service” means: (i) for a new or existing building used as residential rental property, the date on which the building is ready and available for its specifically assigned function, i.e., the date on which the first Unit in the building is certified as being suitable for occupancy in accordance with state or local law; and (ii) rehabilitation expenditures that are treated as a separate new building are placed in service at the close of any 24-month period over which the expenditures are aggregated.

“Primary Permanent Funding” means the loan secured by the first lien on the project plus any additional notes secured by subordinate liens on the project, which represent additional debt service requirements intended to be paid from sale proceeds or operating income generated by the project.

“Project” means any project for residential rental property if the project meets the requirement of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 Test - The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 Test - The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, is irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes. Scattered Sites may be considered to be one project if the Scattered Sites meet the above definition and the requirements in the “scattered sites” definition in this Section.

“Property Manager” or “Property Management Company” means the entity responsible for marketing, maintenance, and tenant relations for a building financed with tax credits under this Plan.

“Reservation” means a written statement issued by ADOH to the Applicant after the application round indicating that ADOH has reserved for the project a specific amount of tax credits which shall receive an Allocation upon the project’s satisfaction of certain conditions.

“Reservation Fee” means the fee to process an application to the point of a Determination which is equal to 10% of tax credits requested.

“Residential Rental Unit” means an area legally licensed or permitted for use as a living space containing a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator, and sink, all of which are separate and distinct from other residential rental units. *Federal Tax Regulations (FTR) 1.103-8(a) 8(i)*.

“Rural Project” means a project located in outside of Maricopa and Pima Counties or in a “rural area” as defined in 7 C.F.R § 3550.10.

“Satisfactory Progress” means that the Applicant, including any person with an ownership interest in the applicant or Development Team member, has presented evidence, satisfactory to ADOH, that each Project for which the Applicant has received a Determination of Qualification, Reservation, or Allocation in Arizona or any other state, has been Placed in Service on time or otherwise is progressing without unreasonable delay though the various phases of development, i.e., financing, permitting, construction, certificate of occupancy, and rehabilitation.

“Scattered Sites” means projects that meet the following criteria:

1. consist of no more than six (6) non-contiguous parcels within a 15-mile radius of each other;
3. all buildings in the project must be under the ownership of one entity;
4. all units in the scattered site application must be managed by one entity;
5. all buildings in the project must be developed under one common plan of financing and considered as a single project by all funding sources;
6. the scattered sites must be appraised as a single proposed development; and

“Severely Distressed Public Housing” is defined in Section (j)(2) of the Public Housing Reform Act, and states that severely distressed public housing as a public housing project (or building in a project) that:

(A)

(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii)

(a) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance; or

(b) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area;

(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this Act, or the programs under sections 9 and 14 of the United States Housing Act of 1937 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), because of cost constraints and inadequacy of available amounts; and

(v) in the case of individual buildings, is, in the Secretary's determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

"Site Control" means Applicant's evidence of ownership or control over the land required for the project in the form of: (i) a binding Commitment Letter from a governmental entity to transfer land to Applicant; (ii) a recorded deed with Applicant as grantee, (iii) a long term lease with Applicant as grantee or (iv) a lease option or fully executed purchase option agreement between Applicant and Owner of property as recorded in jurisdiction of property.

"Special Needs Populations" ADOH includes the homeless, the seriously mentally ill, the physically disabled, individuals infected with the human immune-deficiency virus or other populations with specialized housing needs. Other populations with specialized housing needs may include:

- Homeless Individual(s): a person(s) who has lived: a) in places not meant for human habitation such as cars, parks, sidewalks, abandoned buildings, etc.; b) in an emergency or shelter facility; c) in a transitional housing facility (not permanent housing).
- Seriously Emotionally Disturbed, i.e., persons between birth and age 18 who currently or at any time during the past year have had a diagnosable mental, behavioral, or emotional disorder that resulted in a functional impairment which substantially interferes with or limits the person's role or functioning in family, school, or community activities. Seriously emotionally disturbed persons are to be certified by a referral agency recognized by ADOH.
- Developmentally Disabled Persons suffering from a severe, chronic condition attributable to a physical or mental impairment manifesting itself before the age of 22 and likely to continue indefinitely. Developmentally disabled persons are to be certified by a referral agency recognized by ADOH.
- Victims of Domestic Violence as certified by referral agency recognized by ADOH.
- Individuals Suffering from Chronic Substance Abuse, as certified by a referral agency recognized by ADOH.

"State Annual Credit Authority" means the total amount of tax credits allocated to the state by the IRS each year based on the population of the state and multiplied by a dollar amount per resident that is adjusted annually for inflation.

“Supportive Housing” means affordable permanent independent rental housing for persons who are homeless or have disabilities. These populations are limited, however, to the following groups: Homeless Individuals; seriously mentally ill; Seriously Emotionally Disturbed; physically disabled; Developmentally Disabled Persons; victims of AIDS/HIV; Victims of Domestic Violence; and Individuals Suffering from Chronic Substance Abuse. See definition of “Special Needs Populations”, above for more complete definitions of these groups. Supportive services are provided to residents of supportive housing on an as-needed basis for as long as they are needed, with the purpose of helping residents achieve maximum possible self-sufficiency and maintain their permanent housing. Supportive services may be provided directly by the Owner or through coordination with existing service agencies and may be delivered through a combination of both on- and off-site service delivery mechanisms, with the provision that an on-site service coordination capacity must be maintained.

“Supportive Services” means services provided by the Service Provider to help residents enhance their way of living and achieve self-sufficiency.

“Syndication Rate” means a ratio that reflects the price to the project for \$1.00 of tax credits awarded.

“Ten-Year Rule”, means the following:

(A) In order for an existing building to qualify as part of a tax credit project, the Applicant must acquire the building from an unrelated person who:

- (1) Has held the building for at least ten years at time of the application, and
- (2) Did not make substantial improvements during that period that are subject to 60-month amortization under IRC Section 197(k) or the Tax Reform Act of 1986.

(B) The Ten-Year Rule may be waived by the United States Secretary of the Treasury in the case of distressed sales of certain federally-assisted projects, prepayment of mortgages that result in buildings being converted to market use, buildings acquired from failed depository institutions, and single family residences used for no other purpose than a principal residence by the Owner.

(C) The legal opinion provided by counsel for the Applicant must provide a detailed analysis of the Placed in Service dates and acquisition dates for Projects submitting an application in conjunction with the 10-Year Acquisition Credits.

(D) An appraisal that separates the appraised value of the land from the appraised value of the building must be submitted with the application when 10-year acquisition credits will be claimed.

“Unit” means any accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation (e.g. a residential dwelling, consisting of one apartment, one single family home, one half of a duplex, etc.). Such accommodations may be served by centrally located equipment such as air conditioning or heating.

“Water Conservation” means the preservation and careful management of water resources.

“Xeriscape Landscaping”, by definition, is landscaping designed specifically for areas that are susceptible to drought, or for properties where Water Conservation is practiced.

3. APPLICATIONS FOR TAX CREDITS

3.1 Amount and Allocation of the State Annual Credit Authority

Annual Tax Credit Ceiling. The federal government establishes the State Annual Credit Authority which limits the dollar amount of tax credits that ADOH may allocate to qualifying projects, and detailed eligibility standards and priority uses for available tax credits. The State's Annual Tax Credit Authority is typically insufficient to fund all applications. This Plan explains the competitive process that ADOH uses to allocate its annual authority for 9% tax credits in 2011. Since the Arizona Department of Housing was established in 2002, ADOH has allocated tax credits valued at nearly \$815 million to projects located throughout Arizona.

For calendar year 2011, the amount used under Section 42(h)(3)(C)(ii) to calculate any state's LIHTC program credit ceiling amount is the greater of (i) \$2.10 multiplied by the state's population or (ii) \$2,275,000. These figures are adjusted annually for inflation. Arizona's LIHTC program credit ceiling amount for the calendar year 2011 is approximately \$13,851,133.80. The amount of tax credits available through this Plan in any allocation round is the annual tax credit ceiling adjusted by the amount of tax credits already allocated, tax credits returned, tax credits carried over from the previous year, and any national pool tax credits that the State may receive. This Plan may be revised as necessary to accommodate changes and provisions of the American Recovery and Reinvestment Act of 2009. Changes to this Plan due to changes in applicable Federal Law shall be announced by ADOH through a public notice.

3.2 Tax Credit Reservation

Maximum Reservation. The amount of tax credits awarded to any one project shall be the lesser of the Eligible Basis Analysis or the Gap Analysis. No more than two projects will be awarded to any one Owner/Developer. In the event of a competitive round under this Plan after the 2011 calendar year, ADOH may limit the maximum amount of tax credits available for a reservation in a separate notice.

(A) **Tax Credit Reservation.** ADOH, based upon an evaluation of applications and in its sole discretion, shall reserve tax credits as follows:

- (1) First to projects in each set-aside category, preference being given to projects with the highest competitive score that: 1) meet eligibility and threshold requirements; 2) demonstrate a strong market demand; 3) and meet underwriting requirements.
- (2) Second to projects that have not designated or do not qualify for a set-aside, preference being given to projects with the highest competitive score that: 1) meet threshold and eligibility requirements; 2) demonstrate a strong market demand; 3) and meet underwriting requirements.
- (3) ADOH shall reserve tax credits to a project through a letter notifying the Applicant of the tax credit reservation. The letter may condition the reservation upon satisfaction of specific requirements which shall include: 1) a request for payment of the reservation fee described in Section 6.4; 2) a description of the requirements for meeting Carryover as described in Section 3.10) A description of the requirements for meeting the 10% Cost Test according to Section 3.11) other conditions that must be satisfied. Failure to satisfy the conditions explained in the letter may result in cancellation of the reservation.

(B) **Reservation List.** ADOH shall establish and make available to the public a Reservation List describing projects receiving an allocation in the order described in Section 3.2 (A)(1) along with the name of the project, project location, set-aside category, and annual tax credit amount.

(C) **Allocation of Recaptured or Returned Credits.** ADOH may allocate tax credits that have been returned and those it has received from the National Pool to projects that were not fully funded or are on the waiting list. ADOH may carry forward remaining tax credits to the next calendar year as permitted under IRC Section 42. Any Applicant not receiving tax credits in the current Allocation Year must submit an application in order to compete for tax credits in subsequent years. Returned tax credits may be allocated to the next highest scoring projects that meet eligibility requirements, threshold criteria and underwriting review. ADOH reserves the right not to reserve or allocate tax credits for any project regardless of ranking under the project scoring criteria, if it determines, in its sole discretion, that an Allocation for such project does not further the purpose and goals set forth in IRC Section 42 or in the Plan, or otherwise attempts to circumvent the goals and requirements of the Plan or ADOH.

(D) **Forward Commitments.** ADOH may consider forward commitments of tax credits from the following year's annual tax credit ceiling amount for projects that received a partial allocation or in the event that ADOH determines that a material error prevented an otherwise qualifying project from receiving a Reservation. The amount of tax credits reserved to project in the subsequent allocation round may be no more than the amount needed to fully fund the project based on review and underwriting at the time that the forward commitment credits are reserved. Forward commitments may be granted by ADOH in its sole discretion for the purpose of maximizing the allocation of tax credit amounts available in the current tax credit year.

(E) **Unsuccessful Applicants.** After ADOH announces the Reservation of tax credits, unsuccessful Applicant's may request a meeting with program staff to discuss the application. ADOH may also accept written questions concerning its scoring of items in an Applicant's application. Questions must be based solely on facts provided in the Applicant's original application. A final decision denying an application for tax credits shall provide notice of the right to administrative appeal pursuant to Arizona Revised Title 41, Chapter 6, Article 10.

3.3 Limitations on Reservation of Tax Credits

(A) **Limitation Based on Concentrations of Projects in Certain Market Areas.** Notwithstanding set-aside amounts or competitive scores, ADOH may in its sole discretion, limit the number of developments in a specific market or geographical area if ADOH determines that there is insufficient demand or that a particular project would have adverse impact on low income housing developments existing in a given market area. In the event that multiple applications are submitted for a given market area that cannot support all of the projects, ADOH may select one or more applications that will best serve market demand or has less of a negative impact than the others. ADOH may, in its sole discretion, refuse to reserve credits to any project if ADOH determines that the given market area cannot support the project. If multiple applications are filed for a given market area proposing to serve different populations (e.g., elderly, family or Special Needs Populations), ADOH shall analyze the applications to ensure that no project will be redundant or have adverse impact on the other applications or existing projects in the given area.

(B) **Limitation Based on Types of Projects Located in Small Population Centers.** For Census Designated Places with populations of 50,000 or less according to the 2000 U.S. census data, an ADOH may limit Reservation or Allocation of tax credits to no more than one family or one senior in any calendar year.

3.4 Application Deadlines, Timetable, and Application Submission Location

(A) **Allocation Rounds.** ADOH may hold one or more tax credit application rounds pursuant to this Plan.

(B) **Application Deadline and Payment of Fee.** Applicant's must submit to ADOH one original application, and one online application along with a non-refundable application fee of \$5,000 for each application on or before 5:00 P.M. March 1, 2011, or as may be otherwise announced by ADOH in an Information Bulletin published on the ADOH website. Bound, hard-copy applications must be received at the reception desk of the Arizona Department of Housing located at 1110 West Washington Street, Suite 310, Phoenix, Arizona 85007. Online applications will be submitted through the ADOH website. Facsimile and e-mail submissions shall not be accepted.

3.5 **Application Format**

Application materials must be in 8-1/2 x 11 format, placed in one or more adequate sized three ring binders, indexed and tabbed as described in this Plan. Exceptions: (1) all drawings/plans may be included unbound if they do not lend themselves to the 8-1/2 x 11 formats. All such plans should be in the smallest practical (readable) format. The maximum acceptable drawing size is C-size; and (2) items of significant volume (such as an Appraisal, Market Demand Study or Capital Needs Assessment) may be submitted as separate bound items. Each application must comply with the format and content of this Plan and present to ADOH a clear, unambiguous and complete application by the deadline date. ADOH may reject any application that does not conform to the requirements of this Plan or is submitted after the deadline date.

Disclosures. Public disclosure of LIHTC applications shall be as provided by Title 39, Chapter 1 Article 2 of the Arizona Revised Statutes. ADOH may redact information or withhold records that are protected from disclosure pursuant to Arizona law. ADOH may withhold market demand studies from disclosure in the absence of an express written waiver of proprietary right or confidentiality from an author or Applicant who has declared a proprietary right or confidentiality of a market demand study submitted to ADOH.

3.6 **Eligibility Requirements**

ADOH shall evaluate all applications in a competitive review process except those financed with Tax Exempt Bonds. Applications that meet the eligibility requirements shall be reviewed for threshold and scored under their appropriate set aside category, if any. ADOH may deny an application for tax credits that fails to meet eligibility requirements regardless of its score.

The following criteria must be met in order to meet the eligibility requirements:

(A) **Application Submittal and Fees.** One original application organized in the prescribed sequence and format, as required by this Plan must be accompanied by a \$5,000 application fee. ADOH shall deem an application ineligible if an application fee payment does not clear to ADOH's deposit account.

(B) **Proof of Online Application Submittal.** Applicant must provide the e-mail confirmation submittal provided by ADOH at the time the online application is uploaded.

(C) **Application Workshop.** Applicant's (or Development team designee) are required to submit Certificate of Attendance at the 2011 Tax Credit Application Workshop

(D) **Compliance Training.** LIHTC developers or ADOH approved (Development team designee) shall attend compliance training a minimum of every five years. Beginning in 2011, ADOH will require developer/owner to provide compliance training certificate as a part of the 2011 LIHTC application.

NOTE: Approved compliance training providers are: ADOH, Compliance Solutions, THEOPRO and Spectrum.

(E) **Authorized signatures.** All documents that require a signature must be signed by the Applicant's authorized representative. An Applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the office of the Secretary of State of Arizona. See Section 2.7(B)(7). ADOH shall not consider forms signed on behalf of an entity that is not duly formed or by a representative without authority.

(F) **Current Accounts.** At the time the application is submitted, no member of the Development Team may be in default on a low-income housing financial obligation to ADOH, HUD, or to any local government body or housing authority in Arizona.

(G) **Satisfactory Progress and Compliance.** ADOH may reject applications for projects having Development Team members that do not meet the requirements of Section 5.2) (Satisfactory Progress) of this Plan or have failed to comply with the tax credit requirements and conditions in previous applications or developments including, but not limited to, payments due on ADOH loans, payment of any other fees as described in Section 7 of this Plan.

(H) **Letter of Acknowledgement and Consent from Local Government.** Applicant's must provide evidence of local government acknowledgement and consent as required by Section 3.9(C).

(I) **Disqualification.** An application must not be subject to disqualification as provided in Section 5.5.

3.7 **2011 Set-Asides**

(A) **Set-Aside Categories:** Annual tax credit ceiling amounts shall be set-aside for one Permanent Supportive Housing Development, two rural projects located in different rural COGs, two tribal projects, and 15% of the State's annual credit for non-profits. Projects will be considered for tax credit allocation in the order prescribed above. If a nonprofit is awarded credit in a previous category, it will have the affect of satisfying a percentage of the nonprofit set-aside.

Supportive Housing	One Permanent Supportive Housing Project For Chronically Homeless-See Tab 19 for supporting documentation
RURAL	Two projects located in rural areas each project located in a separate rural COG (NACOG, WACOG, SEAGO & CAG)
TRIBAL	Two projects located on Tribal Lands
NONPROFIT	15% of the state's annual credit authority is set-aside for "non-profit projects," as defined in Section 2.7(B)(13) of this Plan. Only nonprofit projects that meet all of the eligibility requirements shall be eligible for an allocation of nonprofit set-aside credits. The allocation of non-profit set-aside credits shall be based on the rankings of non-profit projects under the scoring system.

(B) **Set-Asides and Reservation of Tax Credits.** In the event that there is more than one qualified application in a set-aside category, then ADOH shall allocate tax credits first to the highest-scoring applications meeting all eligibility, threshold, and underwriting requirements in the set-aside categories. Unallocated balances in one or more set-aside categories shall be allocated to the eligible and feasible project that may be fully funded. If the unallocated balance is sufficient to fund more than one application, then a reservation shall be made to the eligible and feasible project with the highest audited score unless ADOH

determined that another eligible project best serves market demand, the policy objectives of this Plan, and the public interest.

3.8 Project Scoring

Tax credits shall be reserved to eligible Applicant's in each set-aside, preference being given to applications with the highest competitive score.

Scoring means auditing the applicant self-scores by verifying support for the points claimed, based on the criteria set forth in this Section. ADOH shall award and or deduct points based solely on the information submitted in the application. An Applicant must provide documentary support for points claimed. ADOH may deny a claim for points if the correct forms or required information are not submitted, or are not submitted at the correct tab, or if information available to ADOH negates a claim for points.

ADOH shall score projects in the following 18 categories:

3.8(A)	GREEN BUILDING	(20 POINT MAXIMUM)	SEE SECTION 3.9(R) TAB 18
The Project contains the following green scoring product specifications:			
<u>Indoor Air Quality:</u>			
All Carpets, Adhesives and Finishes Utilize Low or Zero VOC Products			05pt
Hard Surface Flooring Material Throughout			05pt
<u>Water Efficiency:</u>			
Drip Irrigation System			10pt
Dual Flush Toilets			10pt
<u>Insulation I (Spray Foam Insulation):</u>			20pts
<u>Insulation II (Structural Insulated Panels):</u>			35pts
<u>Cool Roofs:</u>			
High Reflectivity and High Emittance Ratings			20pts
Radiant Barrier			05pt
<u>Passive Solar Heating:</u>			25pts
<u>Solar PV:</u>			
Common Area Load Offset by 75%			80pts
Common Area Load Offset by 40%			.0pts
<u>Recycled Concrete:</u>			10pt

3.8(B)	TRANSIT ORIENTED DESIGN	(20 POINT MAXIMUM)	SEE SECTION 3.9(S) TAB 18	
Project Meets Criteria of Quality Bus Transit				5 pts
Project Located in Proximity of Mixed Use Center				5 pts

Project Located in Proximity of High Capacity Transit Station 10pts

3.8(C) OCCUPANCY PREFERENCES SEE CATEGORIES BELOW SEE SECTION 3.9(U) TAB 20

Households with Children: (Insert FORM 20 "Commitment to Set Aside Units")

5 points are available to Projects in which 25% of all Units are reserved for Households comprised of families with children. The Applicant must provide a description of the Project's specific design elements that serve the needs of families with children.

Additional points may be awarded to Applicant for providing one or all of the following services:

Daily On-Site Childcare:	Additional	5pts
Before/After School Program	Additional	1 pt
Bi-Monthly Parenting Classes	Additional	1 pt
Bi-Monthly Computer Training	Additional	1 pt
Bi-Monthly Job Training, Search Assistance and/or Placement	Additional	1 pt
Quarterly Credit and Financial Counseling/Education	Additional	1 pt

Veterans Preference:

10 points are available for Projects in which at least 20% or more of the units in the project will be set-aside to serve Veteran's Population with enhanced services.

Elderly Project:

10 points are available to Projects in which 100% of the project will serve individuals who are 62+ years of age or are handicapped, and must offer Supportive Services.

Mixed Income Development:

Up to 5 points are available to Projects in which a percentage of the units are designated as Market Rate Units. **DO NOT ROUND UP.**

11-20% or More of the Units Will Have Unrestricted Rents	5 pts
5-10% of the Units Will Have Unrestricted Rents	3 pts

3.8(D) FOR PROFIT/ NON-PROFIT PARTNERSHIP (10 POINT MAXIMUM) SEE SECTION 3.9(V) TAB 21

10 points are available to Projects in which a For-Profit Developer partners with an Arizona based Non-Profit to provide supportive services to the Project in exchange for 15% of the total Developer Fee.

3.8(E) PRIORITY MARKET NEED (35 POINT MAXIMUM) SEE SECTION 3.9(W) TAB 22

Select the % of restricted Low-Income Units per the Area Median Gross Income (AMGI). **DO NOT ROUND UP.**

<u>Units Equal To or Less Than 50% AMGI</u>		<u>Units Equal To or Less Than 40% AMGI</u>	
RURAL:			
40% + =	15 pts	30% + =	20 pts
21-39% =	10 pts	16-29% =	15 pts
10-20% =	5 pts	5-15% =	10 pts

URBAN:

45% + =	15 pts	35% + =	20 pts
21-44% =	10 pts	16-34% =	5 pts
10-20% =	5 pts	5-15% =	10 pts

3.8(F) TENANT LEASE PURCHASE (10 POINT MAXIMUM) SEE SECTION 3.9(X) TAB 23

100% of the Project is intended for Tenant Ownership after the 15 year compliance period. **10pts**

3.8(G) ARIZONA BASED DEVELOPER (5 POINT MAXIMUM) SEE SECTION 3.9(Y) TAB 24

5 points are available to Projects whose Ownership Entity consists of an Arizona Based Developer, and the Arizona Based Developer has its Principal Place of Business in the State, and can provide an Arizona Driver's License, evidence of Voter Registration or evidence of payment of taxes in the State.

3.8(H) LOCAL GOVERNMENT FINANCING (10 POINT MAXIMUM) SEE SECTION 3.9(Z) TAB 25

10 points are available to Projects in which at least 100% of the Permanent Financing is from a Local Government and the Project is located within a City/Town/County which has a population of less than 500,000.

3.8(I) COMMUNITY REVITALIZATION (15 POINT MAXIMUM) SEE SECTION 3.9(AA) TAB 26

Up to 15 points are available to Projects who meet 1 of the 5 requirements listed below:

1. The Project is in a Priority Housing Area designated by the Local Government;
2. The Project is located in a geographic area or evidence that the parcels on which the projects sits are part of the Local Government's comprehensive affordable housing plan;
3. The Project is located within a Federal Empowerment Zone;
4. The Project is located within a Federal Enterprise Community; or
5. The Project has been established as HUD Neighborhood Revitalization Strategy Areas.

3.8(J) ACQUISITION/REHAB (40 POINT MAXIMUM) (SEE SECTION 3.9(AB))
ACQUISITION/DEMO (40 POINT MAXIMUM) (SEE SECTION 3.9 (AB))

Acquisition/Rehab:

\$35,000 or more	30 pts
\$25,000 - \$34,999	15 pts
\$15,000 - \$34,999	10 pts
Foreclosed Property:	Additional 5 pts
HAP Contract:	Additional 5 pts
Blighted and Distressed Structure:	Additional 5 pts

Acquisition/Demo:	
Acquisition/Demo and New Construction of a blighted property.	30 pts
Foreclosed Property:	Additional 5 pts
HAP Contract:	Additional 5 pts
Blighted and Distressed Structure:	Additional 5 pts

3.8(K)	QUALIFIED CENSUS TRACT (QCT) OR DIFFICULT TO DEVELOP AREA (DDA)	(3 POINT MAXIMUM)
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Proposed Project is located within a QCT or DDA as designated in Exhibit ____.

3.8(L)	RURAL AREA DEVELOPMENT	(17 POINT MAXIMUM)
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Projects located in a Rural Area as defined in 7 C.F.R. §3550.10 and all locations outside of Maricopa and Pima County:

15 pts

Projects newly funded by U.S.D.A. through Section 514/515/516 or 538 Programs:

2 pts

3.8(M)	CITIES/TOWNS/COUNTIES	(5 POINT MAXIMUM)
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5 points are available to Projects located in a City/Town/County which has not received a LIHTC allocation in the past 5 years.

3.8(N)	APPLICANT ENTITY	(5 POINT MAXIMUM)
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5 points are available to Projects where the Ownership Entity is the Applicant.

3.8(O)	EFFICIENT USE OF TAX CREDITS	(10 POINT MAXIMUM)
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Up to 10 points are available to Projects evaluated by ADOH on a bell curve placing the Projects at either the bottom third - 0 points, middle third - 5 points, and top third - 10 points. Acquisition/Rehab and New Construction Projects will compete against each other in their own category.

3.9 Threshold

ADOH may make written inquiries in order to complete the threshold documentation requirements or to verify the information submitted. ADOH shall consider such supplemental documentation for threshold purposes only, and may not consider the supplemental information in scoring the application. ADOH may verify representations, information, and data in an application with public information and statistics available through recognized subscription services. Applications must meet each of the following threshold requirements. Documentation should be included at the specified TAB as noted below.

A. Cover Letter, Waiver of Requirements.

(1) **Cover Letter.** A complete application must contain a cover letter that describes the project, the target AMI and rent structure, public benefit of the project, any special characteristics of the project, and any other information deemed pertinent to the project.

(2) **Waiver of Requirements.** Applicants may request that ADOH waive specific requirements of this Plan. Waiver requests shall be supported by a detailed narrative explanation sufficient to permit ADOH to determine that: 1) waiver of the requirement is consistent with Section 42 of the Internal Revenue Code and its implementing regulations, and IRS guidance, 2) waiver of the requirement accomplishes the purposes and objectives of this Plan; and, 3) the waiver shall not adversely affect the feasibility of the project. Each waiver request must be submitted on a separate sheet of paper and inserted behind the cover letter.

B. TAB 1: Self Score Sheet & Set-Aside Election.

(1) Insert executed Form 1 "Self Score Sheet".

(2) Insert executed Form 1-1 "Set-Aside Election". An Applicant may designate one or more Set-aside categories. Applications that fail to demonstrate the requisite Applicant or project characteristics for a designated set-aside shall not receive a reservation of tax credits in that set-aside.

C. **TAB 2: Local Government Acknowledgement and Consent.** Submit a letter (see exhibit), signed by the chief executive of the local government jurisdiction where the project is located acknowledging that the governing jurisdiction has notice of and consents to the project and that provides the chief executive or the governmental body of the jurisdiction an opportunity to comment on the project. Negative comments by the chief executive or governing body of the local government jurisdiction shall be grounds for rejection of the application.

D. TAB 3: Application & Certifications.

(1) Form 3 and Applicant's Certifications - Complete and execute Form 3

Note: All line items completed in the Development Budget under "Other" must identify the specific costs in the notes section.

(2) Gap Financing Application. Complete and insert behind Form 3

(3) IRS Form 8821. Applicant's are required to submit complete and executed copies of IRS Form 8821, "Tax Information Authorization," for the Applicant and each Development Team member who has a financial interest in the project, authorizing ADOH as "Appointee" to receive from the IRS available information regarding any "Financial Beneficiary's" conduct of its business with the Internal Revenue Service ("IRS") relating to the Low-Income Housing Tax Credit Program. Such information received from the Internal Revenue Service may be used by ADOH in its sole discretion to disqualify

an application pursuant to Section 4 of this Plan. Enclose behind the Applicant Affidavit, Release, and Oath.

E. **TAB 4: CPA Opinion.** Applicant must provide, on CPA letterhead and in substantially similar form to Exhibit E-1 "Sample CPA Opinion", an opinion which includes all reductions to basis, i.e. solar credits.

F. **TAB 5: Legal Opinion.** The Applicant must include a legal opinion from counsel opining that the project meets the requirements of I.R.C. § 42 and that the project has not been Placed in Service prior to the LIHTC Application date. The legal opinion must be provided by an attorney in accordance with Arizona Supreme Court Rules 31 and 33 on professional letterhead and should at a minimum address the issues suggested in Exhibit E "Sample Legal Opinion." The legal opinion must clearly address the 10-Year Rule regarding the eligibility for acquisition tax credits. If the legal opinion submitted in the application does not meet the requirements of I.R.C. § 42, and as stated above, ADOH may require the Applicant to update the legal opinion at the Applicant's sole expense.

G. **TAB 6: Legal Formation, Licensing, and Business Registration.** The Applicant must include evidence that the Applicant, Developer, and every member of the Development Team that holds an interest in the project, are duly formed legal entities authorized to transact business in the State of Arizona and in good standing with the Arizona Corporation Commission or the Office of the Secretary of State of Arizona.

(1) **Corporations.** If the Applicant or Developer is incorporated in Arizona, provide a Certificate of Good Standing issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the deadline date. Applicant's and developers incorporated in another state and doing business in Arizona should submit the following: a Certificate of Good Standing or its equivalent from the state of incorporation dated not earlier than 30 days prior to the deadline date **and** a Certificate of Authority to Transact Business in Arizona or a Certificate of Good Standing for such foreign corporation, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the deadline date.

(2) **Limited Partnerships.** If the Applicant or Developer is a limited partnership organized under the laws of Arizona, then the Applicant must provide a Certificate of Existence, issued by the Arizona Secretary of State and dated not earlier than 30 days prior to the deadline date. Applicant's and developers organized under the laws of another state and doing business in Arizona should submit the following: a Certificate of Existence or its equivalent from the state of organization, dated not earlier than 30 days prior to the deadline date, **and** an Arizona Certificate of Foreign Limited Partnership from the Arizona Secretary of State or a Certificate of Existence dated not earlier than 30 days prior to the deadline date.

(3) **Limited Liability Companies.** If the Applicant or Developer is a limited liability company organized under the laws of Arizona, then provide a Certificate of Good Standing, issued by the Arizona Corporation Commission, dated not earlier than 30 days prior to the deadline date, should be submitted. Applicant's and developers organized under the laws of another state and doing business in Arizona should submit the following: a Certificate of Good Standing or its equivalent from the state of organization dated not earlier than 30 days prior to the deadline date and an Arizona Certificate of Authority to Transact Business in Arizona issued by the Arizona Corporation Commission and dated in the year of application or a Certificate of Good Standing for such foreign limited liability company dated not earlier than 30 days prior to the deadline date.

H. **TAB 7: Non-Profit Information.** Projects seeking consideration in the Non-Profit set aside shall provide the information and materials described in this paragraph. The Applicant must submit evidence that the Applicant is a current 501(c)(3) or (4) entity.

(1) The Applicant must execute Form 7, a “Certificate of Non-Profit Participation,” certifying that the nonprofit organization will materially participate in the development and operations of the project on a basis which is regular, continuous, and substantial. “Non-profit Projects” are projects in which a qualified non-profit organization (i.e., an IRC Section 501(c)(3) or (4) organization) owns an interest (directly or through a partnership) and materially participates within the meaning of IRC Section 469(h)(i) in the development and operation of the project throughout the compliance period. The non-profit organization may not itself be an Affiliate of or controlled by a for-profit organization. Material participation is defined at IRC Section 469(h)(i) as involvement “in the operations of the activity on a basis that is regular, continuous and substantial.” The ADOH defines “substantial” as having the authority or right to, among other things, participate in the decision-making process for design, location, materials, and management of the project.

(2) ADOH requires that the non-profit organization provide:

(a) IRS documentation of status 501(c)(3) or 501(c)(4); or in the case where a governmental or tribal agency is applying for non-profit consideration, it must provide the appropriate 501(c)(3) or (4) documentation, a letter from the executive officer of the local governmental or tribal agency;

(b) a description of the nonprofit organization and its activities, to include the promotion of affordable housing in its articles;

(c) evidence that it or its officers or members have experience in developing or operating low-income housing;

(d) evidence (in the letter of intent received from the investment syndicator) that it holds the right of first refusal to acquire the project following the fifteen-year compliance period;

(e) evidence that it has developed an operating plan for the project covering its role in developing and managing the project, including its participation in the Developer fee; its control of project reserves; its plan for maintenance, replacement, and renovation; and its oversight of marketing and of compliance with IRC Section 42;

(f) the names of board members of the nonprofit organization;

(g) the sources of funds for annual operating expenses and current programs; and

(h) evidence of financial capacity in the form of Financial Statements for the past two years.

I. **TAB 8: Development Team.** The Applicant must demonstrate that the Development Team possesses the experience and financial capacity necessary to undertake and complete the project, and that the Applicant has developed projects of comparable size and financing complexity. The person signing the application must demonstrate his or her authority to bind the Owner.

(1.) Applicant shall provide the following information to satisfy Tab 8:

(a) Insert a completed Form 8 “Development Team”.

(b) Include an organizational chart that describes the relationship whether through control or contract between the Applicant, the Developer, and the Owner.

(c) Include a copy of the legal document demonstrating the authority of the Applicant to bind the Owner such as, a limited partnership agreement, operating agreement for a Limited Liability Company, or a development services agreement, or similar agreement. In the event that the limited partnership agreement, operating agreement, or development services agreement has not been finalized, ADOH will accept a provisional agreement with a warranty that the requisite authority will be made a term of any such agreement at the time of closing with the tax credit investor and the construction lender.

(d) Include resumes that specifically identify the officers or supervisory employees of the Developer who possess the knowledge and experience required by this paragraph and as otherwise necessary to support a claim for points for developer experience..

(e) Include financial statements of the Developer for the prior two full calendar years.

(f) The Developer identified in the application must demonstrate that it has developed the Affordable Housing projects from concept through lease up, conversion of the construction loan, or issuance of I.R.S. Forms 8609 for tax credit projects, whichever is latest. Projects developed by affiliates or predecessors in interest of the Developer will not support a claim for points in this category.

(g) ADOH will evaluate the experience of the Developer based on detailed explanations demonstrating that the officers or supervisory employees of the Developer have the experience necessary to develop the project through final allocation of tax credits. A separate explanation should be submitted for each officer or supervisory employee responsible for the development of the project proposed in the application.

(2.) In addition to the items stated above, Applicant must include the following items:

(a.) Form 8-1. Include the name of the Developer, name of the project, the mailing address of the project, and the number of Residential Rental Units completed;

(b.) Detailed explanations of the relevant experience of the officers and supervisory employees responsible for development of the project proposed in the application;

(c.) Form 8-2. The Applicant must execute and attach Form 8-2 (Authorization for Release of Information). The Applicant must disclose the following facts:

(i) If Developer failed to resolve compliance issues with ADOH consistent with Section 8.2(F), or with any other state allocating agency within six months of notification of non-compliance;

(ii) If Developer failed to complete a project with features or amenities in an application without the express written consent of ADOH;

(iii) If Developer failed to notify ADOH of Material Changes to an application as required by Section 4.7;

(iv) If Developer failed to make satisfactory progress consistent with Sections 2.6(C)(6) and 4.2; and

(v) The Applicant must disclose if any members of the development team have been removed and/or replaced by the limited partner in the past 5 years.

J. TAB 9: Acquisition and Site Control

(1) Acquisition.

(a) For an Acquisition project, a land only appraisal of real property must be provided as part of the Application submittal. When reviewing the land only appraisal, ADOH will only allow the lesser of the purchase price or appraised value to be considered in assessing a value to the land.

(b) For an Acquisition/Rehabilitation project, the appraisal shall include total value of the property with separate value of land and building.

(2) In order to demonstrate Site Control, Applicant must provide an enforceable commitment to transfer the land to the project owner, a recorded deed or long term lease in the project owner's name, a lease option or by a fully executed purchase contract or purchase option to the project owner. If a purchase contract or purchase option is submitted, the agreement must provide for, either a closing date or an initial term lasting until the period ending no less than 180 days after the deadline date for submittal of the application. To establish site control, the Applicant must submit the following to ADOH:

(a) A "Status (Condition) of Title Report" for the property dated within 60 calendar days of the date of the application by a title insurer licensed in Arizona. The title report must not include any conditions or requirements materially and substantially adverse to the feasibility of the project.

(b) If the project or a Development Team member holds fee title to the property, then Applicant should provide a copy of the settlement statement prepared by the title company for the buyer and seller at the closing.

(c) If the Applicant has entered into a lease agreement, the term must be a minimum of 30 years.

(d) For projects that are located on government or Tribal lands, the Applicant must establish legal control of the property by submitting: (i) an agreement between the project owner and the Tribe or other government to enter into a lease of specific real property for a term at least equal to the duration of the Extended Use Agreement, and (ii) a resolution of a Tribe or other government agency authorizing the Tribe or government entity to enter into the agreement. For Tribal leases only, ADOH may consider the length of the lease to be the original term of the lease plus the term of any option to renew, provided that the option to renew is held solely by the Applicant.

(e) In cases requiring use of powers of eminent domain by the local government, the Applicant must enclose evidence that a condemnation lawsuit has been filed for the specific parcels of real property upon which the project may be situated together with the court's order of possession.

K. TAB 10: Land Use and Zoning Regulations. The Applicant must demonstrate that the applicable land use and zoning restrictions permit the proposed project development. Insert executed Form 10 "Project Zoning Certification"

L. TAB 11: Financial Ability to Proceed. The Applicant must demonstrate that the Development Team has secured funding sources necessary to undertake and complete the project, as well as evidence that the Sources

and Uses are balanced. The Applicant must provide the following documentary support to evidence the items above:

(1) **Letter of Interest From Tax Credit Syndicator.** A letter of interest from a tax credit syndicator proposing the terms and pricing of purchase of tax credits allocated to the project.

(2) **Letters of Interest From Other Sources of Financing.** Copies of letters of interest from all sources of financing that include a (i) a term sheet (ii) amount of the loan, (iii) interest rate, including all points, (iv) amortization period, if applicable, (v) term of the loan, (vi) loan-to-value factor, (vii) maximum and minimum debt service coverage allowable (not required if the permanent lending source is a governmental or tribal entity), (viii) all commitment and/or origination fees, (ix) and a description of all other fees directly attributed to the funding of the loan.

(3) **Pro Forma and Operating Expenses.** Include a 15-year pro forma and operating expense data. See Section 7.3(C)(2) for assumptions relating to Operating Costs.

(a) The pro forma must reflect the rent structure in the application, all lenders' assumptions such as principal and interest payments, cash flow obligations, non-rental income, detailed operating expenses, required reserves, annual fees, debt service coverage ratio etc.,

(b) If the pro forma reflects negative cash flow in any year, the application shall demonstrate the funding and utilization of an operating deficit escrow account or describe the source of the operating deficit funds. A commitment from the entity facilitating the operating deficit reserve/escrow funds needs to be included with the other funding source documents.

(c) The pro forma may reflect rental assistance if supported by the other funding source documents.

(d) Applicant's proposing operating expenses that are not compliant with Section 8 shall submit at least two forms of data supporting the operating expenses stated in the pro forma (for example, database information from similar projects, comparable project information as illustrated in a Market Demand Study, IREM information or National Apartment Association information). ADOH may require submission of the audited Financial Statements for comparable projects owned by the Applicant. Rehabilitation projects may submit 3 years of historical information as evidence of operating expense assumptions.

(e) The pro forma income and expense shall trend at 2.00% and 3.00% respectively. Annual replacement reserve obligations shall trend at 3.00%.

M. **TAB 12: Market Demand Study.** The Applicant shall include a market demand study that meets the requirements of the Market Demand Study Guide (Exhibit L).

N. **TAB 13: Project Location.** The Applicant must include: (1) detailed directions to the site from the nearest major intersection; (2) an 8x10 or fold-up map indicating the following facilities located within 2 miles of the proposed development:

- (1) Existing LIHTC or any other governmental subsidized housing developments
- (2) Retail centers
- (3) Medical complexes
- (4) Recreational Facilities

- (5) Educational Facilities
- (6) Large scale employment centers
- (7) Public transportation

O. **TAB 14: Utility Allowance Schedule.** The Applicant must include a copy of the current utility allowance schedule, published by the local Public Housing Authority or utility company along with a letter from the issuing authority dated no sooner than 30 days prior to the date of application submission that it is the most current utility schedule. Applicant's proposing a utility allowance schedule based on the Energy Consumption Model must demonstrate that the schedule was prepared by a RESNET Certified Rater Member in accordance with the requirements described in ADOH Information Bulletin 02-09, January 20, 2009.

P. **TAB 15: Drawings and Plans.** The Applicant must include preliminary drawings and renderings of the development including:

- (1) A site plan showing the site topography, general development of the site, the building and parking location, and proposed landscaping;
- (2) The facility building layout and net floor area for projects proposing a Community Facility or Community Services Facility;
- (3) Plans and elevations for each proposed building and clubhouse; and
- (4) All newly constructed and rehabilitated properties must incorporate reasonable Water Conservation measures including, but not limited to, alternative and low-flow toilets, low-volume showerheads, aerator or flow restrictor devices in the faucets, front-loading or horizontal-axis washers, and Xeriscape Landscaping.

Q. **TAB 16: Property Design Standards for New Construction and Rehabilitated Properties**

(1) The Applicant must demonstrate compliance with the current codes developed by the International Code Counsel including the International Building Code, International Mechanical Code, the International Plumbing Code, the 2006 International Energy Code, and the National Electric Code by the published by the National Fire Protection Association (or such similar applicable codes effective in the jurisdiction where the Project is located). The application must also demonstrate compliance with the Federal Fair Housing Act (42 U.S.C. §§ 3601, et seq. and 24 C.F.R., Part 100, Subpart D), the Arizona Fair Housing Act (A.R.S. §§ 41-1491 through 41-1491.37), and HUD Fair Housing Regulations (24 C.F.R. Part 100, subpart D), the Uniform Federal Accessibility Standards (Section 504 of the 1973 Rehabilitation Act) and the Americans with Disabilities Act (42 U.S.C. §§ 12101 through 12213).

(2) The Applicant must include, a completed Exhibit Y, signed by the Architect for the project certifying that the project meets the above design standards.

(3) The Applicant must include a completed Exhibit Z, signed by the architect certifying all green products/systems shall be included in design documents/specifications. Exhibit Z must be resubmitted along with the application for Final Allocation of Tax Credits (see Section 5 Final Tax Credit Allocation). The submittal must include Exhibit W-1 Architect's Certificate affirming that all of the specified materials, methods or systems listed were in fact included in the project. Architect certification of green products/systems with 8609 package shall include certification (signed letter,

receipt to project for materials delivered, etc.) from vendor that the green product/system was provided to the project.

R. Tab 17: Green Building To be awarded any Green Building Points, specific Green product details, building methods/applications and/or systems are required to be listed on Exhibit Z (See Section 2.7(B)(27)(c)) at time of initial application and at 8609 submission. The project Architect is required to list all of the Green products, building methods and energy systems corresponding to the respective point categories claimed. The Architect must specify and ensure the use of all claimed green products. The Architect will be required, at time of 8609 application, to certify that all specified green point criteria have been met and validate with project contracts, work orders, or delivery receipts.

The project's Green specification list must be submitted at time of application to apply for Green points. A sample Green Building specification summary sheet is found below representing the minimum amount of information required at time of application. Product detail should be sufficient enough to allow ADOH to verify the approximate cost of the proposed product/system.

For Solar PV system points, a separate additional financial worksheet must be provided showing all of the applicable financial incentives including but not limited to: energy tax credits (include syndication agreements or IRC Section 1603 exchange documentation for valuing these credits), solar energy Power Purchase Agreements (include PPA's if applicable), federal state and local tax deductions, enhanced/accelerated depreciation values, manufacturer's rebates and property tax assessment exemptions, credits or offsets. See Exhibit Z.

The same Green Building specification list must be resubmitted in conjunction with **Exhibit W-1 Architect's Certificate** affirming that all of the specified materials, methods or systems listed were in fact included in the project. Be advised that failure to include all scored elements could result in a loss of points on future ADOH projects.

Shading analysis and building placement configuration to optimize solar exposure for projects claiming green photovoltaic points.

Example: Concrete supplier provide certification that concrete delivered to the site contained 20% flyash or slag.

SAMPLE GREEN BUILDING SPECIFICATION SUMMARY SHEET SAMPLE						
Product Specified	Manufacturer Supplier	Product Line	Green Feature(s)	Application(s)	Estimated Cost (at application)	Cost Documents (at final review)
Paints	Sherwin Williams	Harmony	Zero VOC	Interior walls & ceilings		
Low Density SPF	NCI Polyurethanes	InsulBloc	Thermal barrier, sealing capacity, STC	Roof substrate		
Solar PV	Kyocera Solar Inc	MyGen SYSTEM	Renewable energy, lowered operating costs	Roofs, parking		

SYSTEM COMPONENT		Construction Use New/Rehab/Both	2010 GREEN CRITERIA – 20 POINT MAXIMUM	Points Available
INDOOR AIR QUALITY		Both	All carpets, adhesives and finishes utilize low or zero VOC. LOW VOC = Carpet max VOC: 100 micrograms/sq meter/hr after 24 hours Adhesives max VOC: 300 g/l Wood Finishes max VOC: 350 g/l Paints max VOC: 150 g/l for nonflat finishes & 100 g/l for flat	0.5
		Both	Hard surface flooring materials throughout	0.5
WATER EFFICIENCY		Both	Drip irrigation system designed by EPA Water sense certified professional	1.0
			Dual Flush Toilets throughout	1.0
ENERGY EFFICIENCY	INSULATION I	Both	Spray Foam Insulation (SPF) – applied to underside of roof substrate – upon completion of all HVAC ducting will be within conditioned space – minimum SPF thickness of 6 inches or application per governing code R value	2.0
	INSULATION II	New	Use of Structural Insulated Panels (SIP) and/or Insulated Concrete Block (ICF) construction -> 75% of exterior/envelope walls	3.5
	COOL ROOFS (*NOT Applicable to locations with more than 4,000 HDD per noaa.gov)	Both*	Roofing materials with high reflectivity and high emittance ratings. (Low Slope roof 2:12 or less; minimum initial reflectivity of 0.65 and 0.50 emittance ratings – High Slope roof 2:12 or greater; minimum initial reflectivity of 0.25 and 0.50 emittance ratings.)	2.0
			Radiant Barrier on all residential roofs – Emissivity rating of 0.35 or lower and product must satisfy the ASTM/IRCCS C1321 criteria for an interior coating intended to reduce radiant heat transfer	0.5
	PASSIVE SOLAR HEATING (*Applicable to locations with more than 4,000 HDD per noaa.gov)	New*	Optimized site, building shape and orientation, landscape and fenestration design (direct and indirect gain design principals). Cold climates only (>4,000 HDD's per year per noaa.gov). Architect must document that at least 4 PSH elements were utilized in order to earn points (i.e. interior thermal storage materials, clerestories, skylights, window glazing, convection walls, etc.)	2.5
	SOLAR PV	Both	PV system large enough to offset estimated (annual net) common area load by 75% and maximized use of incentives.	8.0
			PV system large enough to offset estimated (annual net) common area load by 40% and maximized use of incentives	5.0
	RECYCLED CONCRETE	New	All new concrete building slabs to contain at least 20% flyash or slag.	1.0

S. **TAB 18: Transit Oriented Design.** Up to 20 points are available for projects incorporating transit oriented development features as outlined below:

(1.) Quality Bus Transit – 5 Points

Quality Bus Transit is defined as:

- Minimum 15 minute weekday headways 6am to 6 pm.
- Minimum 30 minute headways 6am to 6pm on weekends.
- Minimum 18 hours of service on weekdays, minimum 15 hours on weekend days.

The bus route corridor should provide one or more bus stops that are within a quarter mile (1,320') straight line radius of the proposed site and the transit agency must confirm that there are no plans to move the route(s) to a different corridor in the next five years.

Proposed site located within a half mile (2,640') straight line radius of a mixed use center represented by at least three of the following elements:

- At least 25,000 sf of convenience retail or grocery.
- At least 25,000 sf of other retail.
- At least 25,000 sf of commercial office or other employment other than the retail.
- At least 25,000 sf of institutional and civic uses.
- At least 25,000 sf of restaurant, café and coffee shop uses.

(2.) High Capacity Transit – 10 Points

High Capacity Transit includes light rail transit, commuter rail, intercity rail and streetcar.

Proposed site to be located within a half mile (2,640') straight line radius of a High Capacity Transit station.

T. Tab 19: Supportive Housing Development

A housing project that provides permanent supportive housing for the chronically homeless. Permanent Supportive Housing is in a Housing First model which centers on providing homeless people with housing quickly and then providing supportive services that target the specific needs of the individual. Services provided through permanent supportive housing can include but are not limited to health care, substance abuse treatment, mental health treatment, employment counseling, connections with mainstream benefits like Medicaid and others.

Requirements:

- a. Documented support for the project from the municipality in which the project is located.
- b. Adequate financial support must be in place in order for the project to be viable. Residents of a Housing First project are charged 30% of their income, if any, for rent. Therefore, adequate financial support must be demonstrated. In most cases this would require vouchers.
- c. Approval from Valley of the Sun United Ways Ending Homelessness Advisory Board for the project.
- d. Project Services Provider must demonstrate proven capacity and experience to serve the chronically homeless.
- e. Project must meet architectural requirements of Housing First model.

U. TAB 20: Occupancy Preferences

- (1.) Insert Form 20 "Commitment to Set Aside Units

a. **Household with Children.** Projects in which 25% of all Units are reserved for Households comprised of Individuals with Children. The Applicant must provide a description of the Project's specific design elements that serve the needs of families with children.

Additional points may be awarded based on services outlined in a "Supportive Services Plan" and the completion of Exhibit N.

2. **Veteran's Preference.** ADOH will require that twenty percent (20%) of the total project units to be set aside for Veterans. The Applicant will be required to provide a commitment from the local government of Vash Vouchers for each set aside unit to be included as documentary support under this set aside.

3. **Elderly - 62 years of Age and Older and or Disabled.** Applicant's proposing projects that serve elderly who are 62 years and older and or disabled shall not propose units with more than two bedrooms. Supportive services shall promote the resident's quality of life and independence while providing efficient delivery of Supportive Services to the residents.

Enclose a completed Exhibit N "Service Provider Questionnaire" and "Supportive Services Plan Outline".

Costs for supportive services should be reflected as a line item in the Annual Operating Costs (Form 3 Section 17).

4. **Mixed Income development.** A percentage less than 20% units maybe be set aside for households with incomes greater than 60% of AMI.

The Set Aside requirement and any additional supportive services committed to will be enforced through a provision in the Land Use Restriction Agreement, which will require notification of any termination in service contracts, no more than a 30 day gap in service provided and the Project will be determined our of compliance if a new service contract is not executed.

V. **Tab: 21 For-Profit & Non-Profit Partnership.** To evidence the joint venture relationship, the Applicant must provide the following:

1. Operating Agreement or equivalent agreement between the For-Profit Developer and Non Profit, which sets forth the Non-Profit's duties with respect to the Non-Profit's role as the service provider for the project; and which includes language that the Non-Profit will receive a minimum of fifteen percent (15%) of the total developer fee received by the Applicant for the Non-Profit's material participation in the project.
2. Evidence that the Non-Profit shall receive 15% of the total developer fee, the Non-Profit shall still be entitled to collect an annual fee for acting as the service provider for the project.

W. **TAB 22: Priority Market Need.** Insert an executed Form 22 "Priority Market Need" Applicant should note that the information provided in Form 22 shall be binding on Applicant in the event that the information provided in Form 22 is not consistent with Form 3.

X. **TAB 23: Tenant Lease Purchase.** Applicants should demonstrate that 100% of the project is designed for tenant home ownership opportunities after the 15-year compliance period.

A. **Eligibility Requirements.**

- (1) Tenant Lease Purchase points are limited to single family, duplex, four-plex or townhome style projects.
- (2) The project design must comply with the requirements stated in Exhibit D.
- (3) ADOH, in its sole discretion, will evaluate Applicant's proposing to serve tenants with incomes less than 50% AMI.

B. Submittal requirements:

- (1) A letter of intent from a qualified non-profit organization to purchase the units,
- (2) A detailed description of the ownership proposal to include:
 - (a) an exit strategy that incorporates a valuation estimate/calculation per IRC Section 42;
 - (b) home-ownership financial counseling services;
 - (c) how the eligible tenants will be identified and offered a right of first refusal;
 - (d) how the units will be priced in accordance with IRC Section 42(i)(7);
 - (e) the manner in which homebuyer assistance will be generated from the project and provided to the homebuyer; and
 - (f) proposed sale agreement.

C. Post allocation requirements. Projects awarded points under this paragraph shall be required to execute and record an Extended Use Agreement that indicates the provisions set forth above for the remaining compliance period. There are additional fees associated with these points. (See Section 6).

Y. TAB 24: Arizona-Based Developers. Developers claiming points under this category must satisfy the following requirements:

- A. If the Developer is a corporation, partnership, limited partnership, or limited liability company that otherwise complies with the requirements of this QAP, then the principal place of business of the developer must be located in Arizona. For the purpose of this subsection "developer" means the principal developer entity (or parent entity, if any) for which financial statements and evidence of developer experience have been provided to ADOH in support of the application for tax credits.
- B. If the Developer is a natural person, then he or she must demonstrate Arizona residency through a valid Arizona Driver's License, an Arizona Voter Identification Card, a personal residence in the State, or an Arizona income tax return filed within one year of the Deadline Date.

Z. Tab 25: Financing Commitment from Local Government.

The Local Government must provide 5% of permanent financing for the Project evidenced by a letter of commitment or funding resolution from City Council. A donation of land by the Local Government will also satisfy this requirement.

In addition to a financing commitment, the Local Government must have a population of less than 500,000 .

AA. **TAB 26: Community Revitalization.** ADOH's strives to promote Community Revitalization efforts which include the remediation of Blight, Blighted Structures, and Severely Distressed Public Housing.

Applicant's should demonstrate that proposed projects claiming points under this section accomplish the following goals:

1. Provide benefit to low income families throughout the State,
2. Aid in the prevention or elimination of Blight, Blighted Structures of Severely Distressed Public Housing, and
3. Meet other community development needs having particular urgency, posing a serious or immediate threat to the health or welfare of a community.

Applicants must enclose the information and materials described below to support a claim for points:

ADOH will accept the following documentary support:

1. A copy of the Local Government's Community Revitalization Plan i.e. consolidated plan, etc. with areas highlighted to show supporting documentation for Applicant's claim for points, and certification on **Form 26** by the local governing body that the project is wholly located in the community revitalization area designated by the Local Government; and
2. The Applicant will be required to insert a map showing boundaries of the housing priority area and the location of the project within that area. The map must clearly show the names of the roads, streets or other boundaries of the housing priority area and also clearly reflect the location of the project on such roads or streets.

AB. **Tab 27: Acquisition/Rehabilitation and/or Demolition**

1. **Acquisition/Rehabilitation**

(a) Projects containing acquisition/rehabilitation and new construction components shall qualify for points in this category only if the rehabilitation units total 50% or more of the total project and the acquisition/rehabilitation is one hundred percent (100%) of the acquired units.

(b) The Applicant should identify the project as a rehabilitation or acquisition/rehabilitation project and fully explain the acquisition and scope of rehabilitation work in the cover letter. The type of rehabilitation improvements and the amount of rehabilitation costs shall be appropriate for the project and proportionate to the benefit as determined by ADOH based on the application and a Capital Needs Assessment, see Section 2.7(B)(33). ADOH may utilize the services of an independent cost estimator in determining whether the rehabilitation costs are reasonable. The Applicant shall be responsible for the costs of the cost estimator. Cost of rehabilitation per Unit is determined by adding direct construction costs and appliances, then dividing that sum by the number of qualified rehabilitation units.

(c) Applications for acquisition/rehabilitation of existing rental housing shall be supported by a relocation plan. The relocation plan shall comply with the Uniform Relocation Assistance Act, 42 U.S.C. § 4621, *et seq.*

2. **Acquisition/Demolition**

Thirty (30) points are available to projects proposing acquisition, demolition and new construction of blighted properties. The Applicant should provide evidence and documentation to satisfactorily substantiate to ADOH that the property has outlived its economic usefulness as follows:

(a) Assessment of Obsolescence:

- (i) CNA substantiating demolition is a more cost effective option than rehabilitation.
- (ii) Market analysis confirming new design accommodates market demand better than existing design (Example – motel with studio units where market demand is for families).
- (iii) Dated photo of building taken no more than sixty (60) days before the application deadline date.

(b.) Additional Requirements:

- (i) No demolition permit may be issued, nor shall demolition activity commence prior to the deadline date for submittal of applications. Development activity undertaken prior to satisfaction of cross-cutting federal regulatory requirements may disqualify a project for gap financing through federal sources.
- (ii) Applications for acquisition/demolition of existing rental housing shall be supported by a relocation plan. The relocation plan shall comply with the Uniform Relocation Assistance Act, 42 U.S.C. §4621, *et seq.*

(c.) Statement from Architect or CNA Analyst. Applicants must include a statement from the architect or CNA analyst, licensed by the State that the report was prepared according to ADOH's CNA Guidelines and that the information included is accurate and that the report can be relied upon by ADOH to present a true assessment of the proposed rehabilitation budget and immediate repairs required at the property.

(d.) The CNA shall examine and analyze the following building components:

- (i) Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities and lines;
- (ii) Structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage;
- (iii) Interiors, including Unit and common area finishes (carpeting, vinyl tile, plaster walls, paint condition, etc.), Unit kitchen finishes and appliances, Unit bathroom finishes and fixtures, and common area lobbies and corridors;
- (iv) Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, and fire protection; and
- (v) Elevators.
- (vi) Provide building life cycle study to economically justify either rehabilitation or demolition. Provide a comparative analysis of the components in this section 2.7(B)(28)(b) to determine cost feasibility of either rehabilitation or demolition option.

(e.) The CNA report shall include the following major parts:

- (i) Critical Repair Items. All health and safety deficiencies or violations of housing quality standards, requiring immediate remediation. If the project has tenants, these repairs are to be made a first priority.
 - (ii) Two-Year Physical Needs. Repairs, replacements, and significant deferred and other maintenance items that need to be addressed within twenty four (24) months of the date of the CNA. Include any necessary redesign of the project and market amenities needed to restore the property to the standard outlined in this Plan, Exhibit D. These repairs are to be included in the development budget and funded by construction-period sources of funds.
 - (iii) Long-Term Physical Needs. Repairs and replacements beyond the first two years that are required to maintain the project's physical integrity over the next twenty (20) years, such as major structural systems that will need replacement during the period. These repairs are to be funded from the reserves for replacement account.
 - (iv) Community Revitalization. Applicants requesting points for projects under Section 3.9 (AA) or Tab 26, must demonstrate the costs associated with remediation of Blight, Blighted Structures, or Severely Distressed Public Housing. These costs are to be included in the development budget.
- (f.) The professional preparing CNA report must:
- (i) Conduct site inspections of a minimum of 35 percent of all units. Units shall be randomly sampled while taking into consideration the Unit size mix, e.g., one-bedroom, two-bedroom, etc. All vacant units must be inspected.
 - (ii) Identify any physical deficiencies as a result of (a) visual survey, (b) review of pertinent documentation, and (c) interviews with the property owner, management staff, tenants, community groups, and government officials.
 - (iii) Identify physical deficiencies, including critical repair items, two-year physical needs, and long-term physical needs. These should include repair items that represent an immediate threat to health and safety and all other significant defects, deficiencies, items of deferred maintenance, and material building code violations that would limit the expected useful life of major components or systems.
 - (iv) Explain how the project will meet the requirements for accessibility to persons with disabilities. Identify the physical obstacles and describe methods to make the project more accessible, and list needed repair items in the rehabilitation plan.
 - (v) Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.
 - (vi) Conduct a cost/benefit analysis of each significant work item in the rehabilitation plan (items greater than \$5,000) that represents an improvement or upgrade that will result in reduced operating expenses (e.g., individual utility metering, extra insulation, thermo-pane windows, setback thermostats). Compare the cost of the item with the long-term impact on rent and expenses, taking into account the remaining useful life of building systems.

3.10 Tiebreaker

In the event two (2) projects have the same adjusted competitive score, ADOH shall reserve tax credits to the project receiving the most points according to the following tiebreaker criteria:

- A. Efficient use of tax credits per bedroom: (based on scoring category)
- B. Time the Application was date stamped and received by ADOH.

3.11 Carryover Allocation Agreement

Projects that will not place buildings in service by December 31, 2011, must request a Carryover Allocation Agreement by submitting the information below no later than December 1st unless otherwise provided in the reservation letter.

Failure to satisfy the requirements and execute the Carryover Allocation Agreement by the deadline date in the reservation letter may result in cancellation of the reservation of tax credits. The person signing the Carryover Allocation Agreement must have authority to bind the Owner. ADOH will not execute the Carryover Allocation Agreement until the Owner has met all the requirements listed below in addition to any additional requirements as may be described in the reservation letter.

- (A) Updated Form 3
- (B) Certificate of Good Standing for Ownership Entity
- (C) Updated Project Schedule

3.11 10% Cost Test Requirements

The IRS requires that owners of projects receiving a tax credit allocation that do not place service in the year their allocation is made must meet the 10% cost test to have a valid Carryover Agreement. The 10% test due date will be 12 months from the issuance of the tax credit reservation letter.

To satisfy the 10% Cost Test, the Owner must demonstrate it has incurred or expensed by the due date stated in the Reservation Letter qualified costs in an amount that is greater than 10% of the reasonably expected basis in the project (including land costs) at the close of the second calendar year. If IRC Section 42(h) (1) (E) (ii) is more restrictive, it shall govern.

A. The following items are required to be submitted for the 10% test cost test:

- (1) Update Form 3
- (2) Independent auditor's report (Sample form provided)
- (3) Certification of Costs Incurred
- (4) Evidence of Land Ownership
- (5) Commitments of all sources of financing for the project
- (6) A 15-year pro forma signed by the senior lender (or the syndicator/investor if the project is funded 100% by equity) that exclusively reflects the following language verbatim: "We acknowledge that this pro

forma substantially matches the assumptions used in our underwriting and due diligence of the mortgage (or equity investment).”

(7) Syndication or Investor Agreement

(8) Executed Construction Contracts

(a) evidence showing the contractor is licensed to do business in Arizona

(b) Copy of Payment and performance Bond or Letter of Credit acceptable to the syndicator

(9) Building Permits

(10) Plans and Specifications (Copy of also be submitted to the Arizona Energy Office)

(11) Updated Project Schedule

(12) Any unpaid fees owed to ADOH

(13) Any additional information requested by ADOH.

(14) ADOH Signage. 8X10 photograph of an erected sign at the construction site listing all sources of financing. The sign must be a minimum size of 24 inches high by 36 inches wide, include a minimum 5-inch high ADOH logo and text printed at a minimum 72-point font. An individual ADOH sign does not have to be provided if incorporated into a larger group sign.

(15) Property Management Company. The property management company must demonstrate that it possesses the experience and capacity to manage the project as required by I.R.C. § 42, the requirements of other applicable federal and state programs, and this Plan. In determining whether the property management company identified in the application has the requisite experience and capacity, ADOH may consider the following:

(a) whether the property management company will make staff available to the project that has managed tax credit properties for a period of five years or more;

(b) whether the property management company will make staff available to the project that have industry-standard training and are certified to manage tax credit properties;

(c) whether the property management company has unresolved compliance issues at two or more properties within the period beginning two years before the date of the deadline for submittal of the application.

(d) ADOH may condition a reservation of tax credits upon designation of a Property Management Company that does not have an identity of interest with the Developer

ADOH may check the references and credit worthiness of the Applicant and other Development Team members as it deems necessary to determine capacity under this paragraph.

Insert a completed Form 8-1 “Development Team Experience”.

Insert an executed Form 8-2 “Authorization for Release of Information” for the Owner/Developer and the Property Management Company.

B. Monitoring Compliance.

1. Include a plan that describes how the project will meet the requirements of I.R.C. § 42, the requirements of other applicable housing programs, and state and local requirements.
2. The Applicant must demonstrate that the entities responsible for operation and management of the property possess the training and education necessary to comply with all applicable program requirements. See Section 8 of this Plan for specific compliance monitoring requirements.

C. Marketing Plan. The Applicant must include an affirmative marketing plan in accordance with fair housing requirements that demonstrates how the project will meet lease up requirements consistent with I.R.C. § 42 and the any requirements of the equity investors and permanent lenders to the project. The marketing plan shall specifically address any potentially adverse demographic, rent-up or capture rate information in the application for the primary market area identified in the Market Demand Study. If Applicant has designated certain units for a Special Needs Population, the marketing plan must indicate how the population will be targeted. To obtain a copy of the form: <http://www.hud.gov/offices/adm/hudclips/forms/files/935-2a.pdf>

D. Environmental Reports. If the project includes a building or structure that was built before January 1, 1978, the Applicant must have a lead-based paint inspection completed by a certified lead-based paint inspector. That inspector must prepare and the Applicant must include in its application a complete copy of that report. If the report indicates the presence of lead-based paint, the Applicant must include: (1) a written amelioration plan for the elimination and disposal or encapsulation of the lead-based paint, and (2) a written on-going maintenance plan to manage the lead-based paint.

Applicant must also provide a Phase I and a full ERR Environmental Report.

4. TAX CREDITS FOR DEVELOPMENTS FINANCED WITH STATE VOLUME CAP BOND AUTHORITY

Determination of Tax Credits for Tax-Exempt Bond Projects

IRC Section 42(h)(4) allows low-income housing projects financed with tax-exempt bonds to be eligible for 4% tax credits if they meet the minimum requirements of the Plan. Applications for projects financed with tax-exempt bonds may be submitted to ADOH as soon as Applicant's receive confirmation of volume cap allocation from the Finance Division of the Arizona Department of Commerce (phone: 602-771-1112, fax: 602-771-1208). At the time of final Allocation, Applicant's sponsoring tax-exempt bond financed Tax Credit projects shall be required to pass all eligibility requirements (see Section 2.6), adhere to all General Regulations set forth in this Plan, and comply with all applicable requirements under Section 5, "Final Tax Credit Allocation." Applicants should consult with their legal advisors to determine a project's eligibility. Applications for eligible tax-exempt bond projects may be submitted and ADOH may allocate such tax credits outside the normal application round. The review of an application for a Determination of Qualification under IRC Section 42(m)(1)(D) may occur in conjunction with the tax-exempt bond hearing that is required under A.R.S. Section 35-726(E).

Tax-exempt bond financed projects may receive tax credits on the full amount of their eligible basis only if at least 50% of the project's "aggregate basis" of any building and land upon which the building is located is financed with tax-exempt bonds. Tax-exempt bond projects with funding gaps, requesting Gap Financing through ADOH to fill those funding gaps, must submit an application at the same time that the applicant submits its tax credit application. See Sections Section 7.3(B)(3)(d) and 6.2 for Gap Financing requirements.

The procedures followed by ADOH in processing applications for bond-financed projects are set forth below.

(A) Upon application:

- (1) ADOH may review tax credit applications at any time of the year after the applicant has received a final resolution from the bond issuing authority. An applicant must submit a complete tax credit application, at least 30 calendar days prior to the hearing required by Section 35-726 (E) of the Arizona Revised Statutes ("Section 35-726 (E) hearing"). The applicant must use the current year tax credit application forms. The application must be accompanied by the appropriate application fee.
- (2) To fully utilize 4% tax credits for tax-exempt bond projects, the Applicant must include a letter from a certified public accountant or tax attorney at **Tab 1** that attests that 50% or more of the project's aggregate basis of any building and land upon which the building is to be located is "financed" by the tax-exempt obligation.
- (3) ADOH shall determine whether the applicant and the project comply with all eligibility requirements of the Plan.
- (4) The Applicant must submit a certification that principal payments on the bonds will be applied within a reasonable period of time to redeem bonds that funded the financing for the project.
- (5) ADOH shall perform the first of two feasibility analyses to determine the amount of credits necessary for the viability of the project. For projects subject to the requirements of A.R.S. § 35-726(E), ADOH shall complete underwriting and comparison of the application submitted for the Section 35-726(E) hearing before making a Determination of Qualification of tax credits. ADOH feasibility analysis will include an underwriting of the project in accordance with ADOH's current standards as set forth in this Plan.
- (6) The Applicant must pay all required fees to ADOH when due.

(B) After Volume Cap allocation for the bonds:

- (1) ADOH may issue a Determination of Qualification letter after both the Section 35-726 (E) hearing and after ADOH issues an approval letter.
- (2) The Applicant shall submit to ADOH a written election statement, referencing IRC Section 42(b)(2)(A)(ii)(II). This election statement shall certify that the applicant has chosen to lock in the applicable percentage as of the Placed-in-Service date or as of the month that the tax-exempt bonds are issued. If the latter is elected:
 - (a) The certification must specify the percentage of the aggregate basis of the building and the land on which the building is located that is financed with bond proceeds;
 - (b) The certification must state the month in which the bonds are issued;
 - (c) The certification must state that the month in which the bonds are issued is the month elected for the applicable percentage to be used in the building;
 - (d) The certification must be signed by the Applicant;
 - (e) The Applicant must provide the original notarized election statement to ADOH before the close of the 5th calendar day following the end of the month in which the bonds are issued. If this

certification is not received by that date, then ADOH must use the percentage based on the Placed in Service date; and

(f) The Applicant must provide ADOH with a signed statement from the governmental unit that issued the bonds that certifies: (1) the percentage of the aggregate basis of the building and the land on which the building is located that is financed with bond proceeds and (2) the month in which the bonds were issued.

(C) At the Placed-in-Service date:

The Applicant shall submit to ADOH: (1) a completed cost certification, and (2) an opinion of the applicant's certified public accountant that 50% or more of the aggregate basis for any building included within the project and the land on which the building is located are financed with tax-exempt bonds, and (3) an opinion of the Applicant's counsel that the project is eligible to receive tax credits under IRC Section 42(h)(4). At this point ADOH may perform the final feasibility analysis of the project. Projects that fail to submit the materials described in this paragraph to ADOH on or before the period ending two years after the date of the Determination of Qualification letter described in paragraph (B)(1) of this section are subject to additional fees as provided in Section 6.5(C) of this Plan.

(D) The Applicant shall submit to ADOH the recorded Extended Land Use Agreement and Consent and Subordination Agreement for the project along with certifications that:

- (1.) The bonds issued to finance all or a portion of the project have received an allocation of the state's private activity bond volume cap pursuant to 26 U.S.C. § 146;
- (2.) That principal payments on the bonds shall be applied within a reasonable period of time to redeem bonds the proceeds of which were used to provide financing for the project; and
- (3.) That the governmental unit which issued the bonds made a determination under rules similar to those set forth in IRC Section 42 (m)(2)(A) and (B) that the housing credit dollar amount for the project does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

(E) If the requirements of IRC Section 42 and this Plan are satisfied, ADOH may issue IRC Form 8609 for the project at the applicable credit percentage under IRC Section 42(B)(2) and may file the original of the election statement with the original of the Form 8609 with the appropriate IRS Form 8610.

5. GENERAL REGULATIONS

5.1 False Filing

An application, including all exhibits, appendices and attachments thereto, made to ADOH for an award of low-income housing tax credits, including any materials filed at a later time with ADOH in connection with an application, is considered to be an "instrument" for the purposes of A.R.S. Section 39-161. According to that statute, knowingly including any false information in or with the application is a class 6 felony. Such an act may also result in barring the applicant and Development Team members from future awards of low-income housing tax credits. In addition, false filing may be subject to the provisions of A.R.S. Section 13-2311 (designating as a class 5 felony the conduct of business with any department or agency of this state by knowingly using any false writing or document).

5.2 Satisfactory Progress

(A) Applicant's who have previously received a Determination of Qualification, Reservation or Allocation in Arizona or any other state must make Satisfactory Progress and be in substantial compliance with the requirements of federal law with respect to all prior projects before ADOH may consider a new application. If the applicant fails to demonstrate satisfactory progress, ADOH may recapture the Reservation or Allocation of tax credits and reject any new application from the same applicant, Development Team, and any person with an ownership interest in the applicant, or a member or members of the applicant or Development Team.

(B) Applicant's that have received previous Allocations must demonstrate Satisfactory Progress towards any project Placed in Service. Applicant's that have not closed on construction loans or utilized bond proceeds for construction within 275 days of Allocation are not eligible for future awards without a written waiver request explaining the circumstances causing and justifying the delay. Waivers for any delay shall be granted or denied by ADOH in its sole discretion. All Applicant's that have received a Determination of Qualification or Reservation, Carryover Allocation or Allocation may be required to report on project progress, using the "Bi-Monthly Performance Report", accompanied by a brief narrative, every 60 calendar days after receipt of the determination, Reservation, Carryover Allocation or Allocation. Applicant's with projects that include tax credits that have not received a final Allocation must make a written request for an approval of the deviation from the approved project schedule submitted with the application. Projects that are not preceding according to the original project schedule submitted, and approved amendments, may be subject to revocation due to lack of satisfactory progress.

(C) ADOH may monitor both the progress and quality of construction. If progress or quality has not been satisfactory, ADOH may report significant deficiencies to any funding source, to other members of the project team, and to the applicant.

5.3 Change of Ownership

ADOH's prior written approval is required for any kind of change of ownership of the applicant. Once a determination, Reservation, Carryover Allocation or Allocation has been issued for a project, transfer of ownership of that project (sale of ownership of any kind) may constitute an automatic event of revocation by ADOH. ADOH may revoke or reverse a determination, Reservation, Carryover Allocation or Allocation or reduce the amount of tax credits at any time.

5.4 Revocation of a Notice of Eligibility for 4% Tax-Exempt Bond Credits, or Reservation or Carryover Allocation for 9% Tax Credits

Recaptured or Returned Credits. If at any time ADOH concludes that a project no longer meets the requirements of I.R.C. § 42 or this Plan, ADOH may cancel a Reservation or recapture tax credits allocated through a Carryover Allocation or a Letter of Qualification (for Tax-Exempt Bond Financed Developments). Recaptured tax credits that were reserved or allocated in a competitive round shall be considered returned to ADOH. In the event that ADOH requires a return of a tax credits Reservation, ADOH shall give notice to the applicant.

ADOH may deny or revoke a notice of eligibility for 4% tax-exempt bond credits, Reservation or Carryover Allocation for 9% tax credits for any project. Denial or revocation may occur at ADOH's sole discretion, due to actions taken by the applicant, Affiliate or project owner from time of the up to the Placed in Service date, for any of the following reasons:

- (A) Subsequent regulations issued by ADOH of Treasury or the Internal Revenue Service.
- (B) Information submitted to ADOH is determined to be fraudulent.
- (C) Failure to pay fees including late fees described in Section 6.5(C).
- (D) Failure to meet eligibility requirements, as outlined above, or other requirements of this Plan.
- (E) Site evaluation and suitability based on the market impact on other affordable housing developments within the primary market area, the proximity to railroad tracks, freeways, excessive noise levels and general site suitability and other conditions regarding clean title, easements, floodplains or wetland issues.
- (F) Failure to make Satisfactory Progress as defined in Section 4.2 of this Plan.
- (G) Instances of curable or incurable noncompliance existing at any time during the compliance period for any federal or state subsidized project located in any state.
- (H) Failure by an Applicant or Owner to promptly notify ADOH of any material or adverse changes from the original application.
- (I) Material Changes without written approval of ADOH.
- (J) Change in the unit design, square footage, unit mix, number of units, and number of buildings described in an application for tax credits without the written approval of ADOH.
- (K) Debarment by HUD or other federal and state programs, bankruptcy, criminal indictments and convictions.
- (L) Failure to comply with federal or state fair housing laws.
- (M) Other cause demonstrating the failure of the applicant or the project to be qualified or meet the requirements of federal or state law or the requirements of the applicable tax credit program.

5.5 Disqualification

ADOH may reject an application if the Applicant, including any person with a Controlling Interest in the Applicant or other members of the Development Team have: (a) failed to make Satisfactory Progress in the construction or rehabilitation of any project; (b) not corrected compliance problems in other tax credit projects as provided in Section 8.2(F); (c) not paid, when due, ADOH's compliance monitoring fees or any other fees required by ADOH; (d) filed with ADOH any materials containing false information, documents, or instruments, whether in the Allocation Year or prior program years; (e) failed to build a previously-approved project in conformity with the terms, provisions, and agreements contained in the application submitted to ADOH, in the applicable year's Allocation Plan, and in the Extended Use Agreement for the project, including but not limited to, the terms, provisions and agreements to conform to the minimum design standards, install equipment, amenities, or design features to serve a specific target population, to provide a specific mix of Unit sizes, to serve Special Needs Populations, or to set aside a certain number of units for persons at or below a specific percent AMGI; (f) developed or partially developed prior projects that are poorly constructed, evidence substandard workmanship, or do not comply with ADOH's minimum design

standards; or, (g) been convicted, are currently under indictment or complaint, been found liable or is currently accused of fraud in this state or any other state, or misrepresentation relating to: (1) the issuance of securities, (2) the development, construction, operation, or management of any tax credit or other government subsidized housing program, (3) the conduct of the business of the applicable party, in any criminal, civil, administrative or other proceeding, or (4) any filing with the Internal Revenue Service in any state; (h) have been suspended or debarred by HUD. ADOH may reject an application if it concludes that a Development Team member does not have the expertise and the organizational and financial capacity to undertake the project described in the application.

5.6 Extended Use Period

Pursuant to IRC Section 42, the state requires that all recipients of tax credits enter into an initial 15-year compliance requirement and an additional extended use restriction for at least an additional 15 years after the initial compliance requirement, extending the total commitment to a minimum of 30 years. Prior to the issuance of Form 8609(s), the Owner of the project shall execute and record with the county recorder where the project is located, such an Extended Use Agreement, which shall constitute a restrictive covenant running with the property upon which the project is located. The agreement shall be in the form provided by the state and is available from ADOH upon request. See Section 5.2 (10).

5.7 Material Changes

Development Team members holding an interest in the project must deliver a project as described in the application for tax credits. ADOH must approve in writing any material change deviation from the project described in the application.

(A) Submittal and consideration of a request for a material change. In order to obtain ADOH approval of a Material Change, the applicant must submit a written request to ADOH explaining the change and the reasons justifying the change. A \$1,500 administration fee must accompany the written request. ADOH may not consider the request unless the fee is included. Because of ADOH's statutory mandate to award tax credits only to the extent they are necessary for project feasibility, the applicant must communicate in writing any proposed Material Change in the project immediately to ADOH for an assessment of the impact on final underwriting and Allocation. The written request must include the applicant's reasons under IRC Section 42 or in this Allocation Plan for believing that the change is permissible. Projects applying for a Material Change shall be underwritten to the standards in the Allocation Plan of the year that tax credits were awarded. The applicant must submit to ADOH written approvals of the Material Change from the local government, the lender, and the syndicator as discussed below.

(B) Specific Material Changes:

(1) Change of Location and Use. ADOH shall not allow an applicant to change the location of a project once the application has been submitted. Notwithstanding the foregoing, ADOH, may allow a project relocation prior to the carryover allocation of tax credits if the new site for the project is within the census tract specified in the application, ADOH receives the written approval of the unit of local government, and the need for relocation was unforeseeable and beyond the Developer's control at the time of application. If an applicant changes the location of a project without the written approval of ADOH, ADOH may revoke the tax credits determined for the project. A change in the use of a project (e.g., elderly, family) after the application has been submitted may not be allowed except with the written approval of both the unit of local government and ADOH. See also below "Complex Material Changes" if the change in location involves an increase in project costs.

(2) Changes to Principals. Substitution of a general or limited partner, or a syndicator or permanent lender may constitute a Material Change, and therefore, must be reviewed by ADOH. If ADOH determines there is no negative effect on the project's feasibility, the change may not be considered material and no fee is due.

(3) Complex Material Changes. Complex Material Changes, (e.g. restructurings that involve a change in the number of units or in the amount of borrowed funds, or in the sources of funds), shall be reviewed following the guidelines below:

(a) Unforeseeable circumstances or the imposition of extraordinary governmental rules and regulations, if fully documented and justified, may be viewed as reasons to approve a Material Change.

(b) When a project is underwritten as the result of a Material Change, any decrease in the scoring or ranking of the project may not be allowed.

(c) Requests for a Material Change necessary to prevent substantial hardship to the project or its feasibility may be considered for approval by ADOH on a case-by-case basis.

(d) If, without approval of a waiver at the time of application, cost caps are later exceeded and create a need for additional funding, ADOH resources shall not be a source of the additional funding. In addition, ADOH may consider the presence of newly found sources of governmental or non-governmental funds in a project as evidence that ADOH housing funds are not needed in the project. If that occurs, ADOH may reduce or eliminate its contribution to the project.

(e) When the Material Change involves a restructuring, all commitments (e.g., set-asides, amenities) must be proportionately the same as at time of application.

(f) Changes to the amount and term of any source of funds including acceleration of repayment of deferred fees or seller carry-back charges from the assumptions in the Permanent Financing Table and the Pro forma are material changes that require the prior written approval of ADOH.

(C) Failure to obtain ADOH approval. If the project fails to obtain ADOH's prior written approval to a Material Change, ADOH may recapture or reduce all or part of the tax credits determined or reserved for the project.

5.8 Distribution of Units

Projects shall allocate the low and moderate-income units among the different sized units to reflect the same percentage distribution as the number of different size units to the total number of units. A greater percentage of the low and moderate income units may, however, be allocated to the larger units. Additionally, low and moderate-income units shall be distributed throughout the project so that tenants of those units may have equal access to and enjoyment of all common facilities of the project.

5.9 Amendments to the QAP

ADOH may modify this Plan, including its compliance and monitoring provisions, from time to time, or for any other reasons as determined by ADOH: (i) to reflect any changes, additions, deletions, interpretations, or other matters necessary to comply with IRC Section 42 or regulations promulgated there-under; (ii) to respond to changes in the market for affordable housing; (iii) to insert such provisions clarifying matters or

questions arising under this Plan as are necessary or desirable and that are contrary or are inconsistent with this Plan or IRC Section 42; or (iv) to cure any ambiguity, supply any omission or correct any defect or inconsistent provision with this Plan or IRC Section 42.

5.10 Disclaimer and Limitation of Liability

(A) ADOH makes no representations to the applicant, Developer, Owner, or syndicator or to any other person as to project eligibility or compliance with the Code, Treasury Regulations, or any other laws or regulations governing the Low-Income Housing Tax Credit program.

(B) Applicant's, development team members, and investors participate in the tax credit program at their own risk. No member, officer, agent or employee of ADOH or the State of Arizona shall be liable for any claim arising out of, or in relation to, any project or the tax credit program, including claims for repayment of construction, financing, carrying costs, any loss resulting from a decision of the Internal Revenue Service, or consequential damage or loss of any kind incurred by an applicant, Developer, Owner, lender, investor, syndicator or any other person. Applicant's shall be required to execute a release and indemnification of ADOH and related parties as part of the application of tax credits and as a condition of final Allocation of tax credits.

6. FINAL TAX CREDIT ALLOCATION

6.1 Final Tax Credit Allocation and First Year Certification by ADOH

ADOH makes a final determination of the amount of tax credits at the time the project is Placed in Service in accordance with the requirements of I.R.C. § 42. For the final allocation of tax credits, the project must submit Final Allocation materials to ADOH as required by I.R.C. § 42 and Section 5.2 of this Plan. ADOH evaluates the project's final costs and the amount of revenues from the sale of the tax credits. ADOH's final evaluation may require review of documentary support for development costs including but not limited to invoices, canceled checks and contracts. Accordingly, ADOH encourages developers to keep detailed records of construction costs. ADOH, in its sole discretion, may reduce credits based on its final evaluation and require a return of tax credits to ADOH. The applicant must submit an 8609 package within 120 calendar days of the last building being Placed in Service. Form 8609 submittals received by ADOH after the 120-day deadline must be accompanied by payment of the late fee described in Section 6.5(C) of this plan. Along with the 8609 package, the applicant must also submit a complete copy of an Appraisal of the project and the property prepared by an Arizona certified general real estate appraiser indicating the value of land and buildings separately. At the time of a final Allocation, ADOH and the applicant shall execute and record an Extended Use Agreement. Evidence of that recording must be presented to ADOH before the issuance of IRS Form 8609(s). Applicants shall receive a final Allocation of tax credits as described below.

6.2 First Year Certification and Issuance of Final Allocation (IRS Form 8609)

For buildings that are Placed in Service as part of a qualified project (by December 31st following the 24 months of closing of the bonds or from issuance of a Carryover Allocation), and upon compliance with all requirements of the Code and ADOH, ADOH shall issue an IRS Form 8609 for each building as of the time the building is Placed in Service. ADOH shall issue the Form 8609 after the applicant fully pays all fees, and submits the items described below in 8.5x11 format, bound in a three-ring binder, and tabbed accordingly:

(A) Project Information Update;

- (B) An updated application (ADOH Form 3);
- (C) A 15 year pro forma, in the form stated in Section 2.7(B)(12)(g) of this Allocation Plan, starting with the Placed-in-Service date;
- (D) A permanent lender's final appraisal of the project;
- (E) All certificates of occupancy, issued by the appropriate governmental authorities, for qualifying buildings that must indicate the dates the buildings were Placed in Service and the addresses of those buildings;
- (F) A Final Cost Certification in the form of an independent auditor's report prepared by a Certified Public Accountant certifying the final cost according to Generally Accepted Accounting Principles for projects with more than 10 units as required by IRS Regulation 1.42-17; as follows:
 - (1) The auditor must certify to ADOH the full extent of all sources of funds and all development costs for the project including any federal, state, and local subsidies that apply (or that the applicant expects to apply) to the project.
 - (2) The auditor must prepare the required schedule of development costs based on the method of accounting used by the applicant for federal income tax purposes, and it must detail the project's total costs as well as those costs that may qualify for inclusion in eligible basis under IRC Section 42.
 - (3) The applicant must make the required certifications on the Certificate of Actual Costs Form satisfactory to ADOH. See Exhibit G. IRS Regulation 1.42-17 also requires that projects with greater than 10 units submit a Certified Public Accountant's audit report on the schedule of project costs.
- (G) The applicant's building-by-building tax credit computation (on ADOH form Table A);
- (H) A letter from the permanent lender summarizing the terms and conditions of the permanent loan. Upon closing of the permanent loan, the applicant must submit copies of the executed promissory note and deed of trust to ADOH;
- (I) A promissory note from the project's ownership entity payable to the Developer in an amount sufficient to cover any Deferred Developer Fee. Other forms of obligation to pay may be substituted if allowed under the definition of Deferred Developer Fee and if they include the following: (a) the interest rate; (b) the term of repayment; (c) the source of repayment and proof that the source of repayment is supported by cash flow projections or a binding commitment from a party capable of repayment; and (d) if there is a lien, language stating that the lien is subordinate to other liens relating to permanent financing;
- (J) An Extended Use Agreement and Consent and Subordination Agreement signed by the applicant (form provided by ADOH).
 - (1) The Extended Use Agreement for compliance with I.R.C. § 42(h)(6) in a form of a declaration of covenants, conditions, and restrictions effective for a period of at least 30 years satisfactory to ADOH shall be executed and recorded at the time of the final Allocation. The Extended Use Agreement shall specify the units set-aside for lower income tenants, the percentage of median income tenants served, as otherwise appropriate for the project described in the application

- including, special needs characteristics of tenants, tenant ownership, amenities, Supportive Services and other commitments or requirements;
- (2) All agreements to be signed and recorded by December 31st must be submitted to ADOH not later than December 1st of that same year;
- (3) Applicant's who have received a Determination of Qualification or Reservation and Carryover Allocation of tax credits and desire to have the Extended Use Agreement completed and recorded by the end of the year must request it by no later than November 1. Any requests submitted after the November 1st deadline may not be completed by the end of the year.
- (K) One 8-x 10-inch color photograph of at least one of the project's buildings with signage;
- (L) A completed form stating the project's first credit year (ADOH provided form);
- (M) Fully executed partnership, operating, or joint venture agreements and other agreements between the project and the equity investor;
- (N) An investor certification letter (ADOH sample form provided);
- (O) Completed Fair Housing Checklist signed by the project architect. See Exhibit Y;
- (P) Except as provided by item 19 below, written certification from the architect that the project meets the Design Standards described in Section 2.7(B)(27) of this Plan. See Exhibit W1;
- (Q) Completed and signed certification from the contractor that the project was built in compliance with the plans and specs provided by the architect. See Exhibit W2;
- (R) Completed and signed Placed-In-Service Acknowledgement (ADOH provided form) for each building in the project;
- (S) Certification from the Arizona Energy Office that the project complies with the 2006 International Energy Conservation Code (IECC) (contact Zachary Stewart of the Energy Office at the Arizona Department of Commerce (602) 771-1147));
- (T) Completed Exhibit X – Operational Risk Management (ADOH provided form);
- (U) Proof of flood insurance, as applicable;
- (V) Completed and executed Exhibit Z. The Architect is required to certify that all specified green point criteria have been met. Supporting details such as contracts, work orders, delivery receipts, etc. are required to be submitted to certify Green products were incorporated into the project as planned;
- (W) Final Allocation fee, if applicable;
- (X) As built survey of completed project;
- (Y) Any additional information requested by ADOH.

6.3 **Final Allocation Underwriting**

Prior to the issuance of IRS Form 8609(s), ADOH underwrites the project using the information provided in Section 5.2. ADOH shall also perform a Funding Gap analysis. Unreasonable costs, changes in financing sources, funding amounts, or excess equity may reduce the final amount of tax credits. ADOH reserves the right to adjust the high cost provision of Section 42(d)(5)(c) or the applicable credit percentage at final underwriting.

7. **FEES** - All fees set forth in this Section 12 are Nonrefundable.

ADOH assesses the non-refundable Application, Reservation and Final Allocation Fee for the purpose of covering the costs and expenses of processing an application to the point where the applicant may receive a final Allocation. If an application, Reservation, or Carryover Allocation is denied due to action or inaction by the applicant, the fees are nonetheless due and payable to ADOH upon demand. Notwithstanding ADOH's determination of the amount of the final allocation of tax credits, no Reservation fee and Final Allocation Fee shall be refundable by ADOH.

7.1 **Tax Credit Application Fee**

An application fee of \$5,000 is due ADOH at the time of submission of the application. Applications will not be accepted unless accompanied by this fee.

7.2 **Gap Financing Review Fee**

A Gap Financing review fee in the amount of \$3,500.00 shall be due and payable upon notice of reservation.

7.3 **Building Permit Extension Fee**

With the requirements of the 10% test, the Developer must submit ADOH evidence of appropriate building permits allowing for construction of the project, issued by the appropriate local government entity. If the Developer requires additional time, ADOH may grant an extension upon payment of a \$3,500 extension fee together with a written request and explanation for the extension. After two extensions, however, ADOH may revoke an Allocation, if it determines that the applicant has not achieved Satisfactory Progress in accordance with Section 5.2.

7.4 **Reservation Fee and Final Allocation Fee**

ADOH calculates the total Reservation Fee on both 9% and 4% tax credits as a percentage of tax credits awarded to the applicant. The Reservation fee is calculated as 10% of the annual credit allocation (8% of the reservation fee is due and payable at Reservation with the remaining 2% due and payable at final allocation).

(A) The Reservation Fee is due and payable as stated in the tax credit reservation letter.

(B) The applicant must submit the Final Allocation Fee together with the final allocation information submitted in accordance with Section 5 of this Plan and prior to issuance of the IRS Form 8609(s).

7.5 **Tenant Ownership Fees**

Applicants with applications that include tenant ownership shall pay an additional \$4,000 legal review fee at the same time that they pay the determination or Reservation Fee. (Discuss with Mike as to whether we want to keep this fee)

7.6 Carryover Allocation Late Fees

ADOH charges a Carryover Allocation late fee of \$250 per day for a Carryover Allocation submittal received after the deadline date specified by ADOH in the reservation letter. Carryover information not received by the close of business of the deadline established by ADOH may result in the project not receiving a Carryover Allocation. In extreme circumstances, such as a late Reservation of tax credits, ADOH may waive the Carryover Allocation late fees.

7.7 Administration Fees

Applicant's must submit a fee of \$ 1,500 to ADOH before any interim underwriting requested by the applicant or additional underwriting required by ADOH due to a Material Change is performed. If the applicant fails to pay the Administration Fee, ADOH may recapture all tax credits allocated to the project.

7.8 Compliance Monitoring Fees

Every applicant for a project that receives an Allocation must pay to ADOH an annual, non-refundable compliance monitoring fee. The timing and amount of the annual compliance monitoring fee are as described in this Section unless the Extended Use Agreement applicable to the project property specifically provides otherwise. Beginning January 1, 2011, and until a subsequent QAP becomes effective, the annual compliance monitoring fee shall be \$65 per Low-Income Unit, and is due annually whether or not a physical inspection is conducted on the property. Payment of the compliance monitoring fee is part of the Annual Report and is due and payable by no later than March 15th. See Section 8.2(D).

8. UNDERWRITING

ADOH's underwriting review of applications for tax credits focuses on the feasibility and the long-term viability of the project. ADOH reserves and allocates tax credits at the minimum level needed to realize the financial feasibility and viability of a project consistent with the requirement of I.R.C. § 42 and this Plan throughout the end of the Extended Use Period.

8.1 Calculation of Tax Credits

Tax credits are awarded based on the lesser of two calculations, the Eligible Basis Analysis or the Gap Analysis. Both methods are included on Form 3.

(A) Eligible Basis Analysis: ADOH computes the eligible basis of a project by multiplying the project's "qualified basis" by its "applicable percentage". ADOH will use 9% and 3.5% credits respectively as the "applicable percentage" for underwriting applications. ADOH will compute the project's qualified basis by multiplying the project's "eligible basis" by the "applicable fraction". A project's eligible basis is the project's tax basis and may be adjusted as follows:

Adjustments to Eligible Basis:

- 1) Portion of federal grant used to finance costs.
- 2) Amount of non-qualifying/non-recourse financing

- 3) Non-qualifying units and/or excess portion of higher quality units
- 4) Cost directly attributed to non-residential mixed use square footage
- 5) Historic & Solar Tax Credits
- 6) Development Costs over the limits set forth in this Plan
- 7) Unapproved waiver costs

(B) Gap Analysis: In addition to the limitation regarding eligible basis as discussed above, ADOH limits the total amount of tax credits that it may award to a project to the amount computed under the “Gap Analysis”. So that projects are not awarded credits in excess of the amount necessary to make the project feasible, ADOH will calculate the “Equity Gap Analysis” for a project by dividing the project “Equity Gap” by the project “Syndication Rate”, by the Investor ownership percentage, and by 10 years. A project’s “Equity Gap” is defined as the amount by which projected development funds of the project exceed projected available funds to the Developer for development of the project, after ADOH has adjusted sources and uses per underwriting guidelines described above. The Syndication Rate for a particular project is a ratio that reflects the price to the project for one dollar of tax credits awarded to the project (e.g., a Syndication Rate of 0.76 means that, for every dollar of tax credits awarded to the project, the project will realize \$0.76). The project’s projected sources of funds for purposes of the “Equity Gap Analysis” consist of permanent financing and any other loans or grants for which the project has received a Commitment Letter or Award Letter. **13.2**

8.2 Underwriting Requirements

(A) A project will be underwritten a minimum of three times: (1) At original application, (2) 10% Cost Test and (3) when a project is Placed in Service. ADOH may request at any time updated information needed to perform an interim underwriting if a material change has occurred, i.e. loss of a project funding source or change in ownership.

(B) ADOH underwrites to the QAP standards and guidance below

1. Permanent Financing Costs

ADOH evaluates permanent financing costs based on the information provided in the commitment letters and letters of intent submitted in the application and compares it to industry standards. Permanent Financing Costs requirements include:

- (1) Origination and loan fees must be below 2% of the permanent loan amount.
- (2) Applicant’s must maximize their primary debt. ADOH may adjust the amount of tax credits reserved to maximize the amount of available debt financing. ADOH may consider information gathered to determine whether the applicant has committed the maximum amount of private sources of funds available to the project
- (3) ADOH may adjust tax credits as necessary to maximize loan payments. ADOH may consider loan terms (e.g., interest rate and amortization period) from the lender’s commitment letter.

2. Debt Service Requirements

Debt service requirements for primary debt. The debt service coverage ratio shall be no less than 1.20 for each year of operation. ADOH may consider a minimum debt service ratio of 1.15 for projects with commitments for loan guarantees or rent assistance through HUD or the United States Department of Agriculture Rural Development Authority.

Debt service requirements for subordinate debt. The debt service coverage ratio shall be no less than 1.00 for any year during the compliance period.

3. **Operating Budget**

a. **Rental Revenue:** Project's rents shall:

(i) Not exceed the maximum allowable permitted under of I.R.C. § 42.

(ii) 10% below market rents being charged for the same type of units in the Primary Market Area.

(iii) Generate sufficient income to cover operating expenses and debt service of the project.

b. **Ancillary Revenues:** ADOH underwrites ancillary income at no more than \$20/Unit/month.

c. **Vacancy:** ADOH will underwrite to a vacancy rate of 10%.

d. **Reserves:** ADOH underwrites replacement reserves for new construction at the rate \$250 per unit per year, and for Acquisition/Rehabilitation projects at \$350 per unit per year.

e. **Operating Expenses:**

(i) ADOH underwrites operating expenses for new construction at \$4,200 per unit per year and for acquisition/rehabilitation at \$4,500 per unit per year.

(ii) ADOH does not include Asset Management Fees in ordinary operating expenses. If included in the Operating Budget, the applicant must add this amount to the minimum operating expense amounts stipulated by ADOH. For example, if the ADOH PUPY minimum is \$4,500 and asset management fees were \$7,000 per year for a 50 unit project (\$140 per unit) the minimum PUPY would be \$4,640.

(iii) Treatment of supportive service expenses. ADOH does not consider supportive service expenses as an ordinary operating expense. If included in the Operating Budget, the applicant must add this amount to the minimum operating expense amounts stipulated by ADOH. For example, if the ADOH PUPY minimum is \$4,500 and support service expenses were \$7,000 per year for a 50 unit project (\$140 per unit) the minimum PUPY would be \$4,640.

(iv) Property taxes. Applicant must include property taxes in operating expenses and the formula used to determine the real estates taxes, as part of Form 3, Section 18. If exempt from property taxes, the applicant must submit a written certification from the treasurer's or assessor's office of the local government and any governmental entity that has taxing authority over the real property upon which the project is located that the project is exempt from real property taxes (e.g., has a non-profit exemption).

4. **Deferred developer fees:** The deferred developer fee may not exceed 40% of the total developer fee and may not be deferred for a term of greater than 13 years.

5. **Development Budget**

Applicant's shall disclose all uses of funds including but not limited to commercial and/or retail space. ADOH may draw comparable costs from industry standard sources, from information collected by ADOH from multifamily projects in the state, and in consultation with construction cost experts.

(a) Per unit development cost limits. *ADOH to determine cost caps*

(b) Construction finance costs limits.

(i) ADOH will verify construction finance costs against the information in the commitment letter from the construction lender and compare to industry standards.

(ii) Origination and loan fees must be below 2% of construction loan amount.

(iii) Maximum Construction Interest will be calculated as follows:

Monthly Interest = Construction Loan Amount * $\frac{\text{Annual Interest Rate}}{12}$

Total Construction Interest = Monthly Interest * (Months of Construction + Months of Stabilization)

Maximum Construction Interest = Total Construction Interest * 50% Average Outstanding Loan Balance

(c) Developer Fee, Overhead, and Consultant Fee Limits. The total amount includable in eligible basis for the developer fee, overhead, and consultant fees shall be limited as provided in the table below. Developer fee will not be allowed to increase after the initial award of tax credits.

**Developer Fee, Overhead, and Consultant Fee Limits
As A Percent Of Total Eligible Basis In
Cost Categories I-V of the Development Budget**

Number of Units	Percent Allowed
1-30	17%
31-60	15%
61+	14%

(a) Acquisition Rehabilitation. For acquisition/rehabilitation projects, 14% of the acquisition cost that may be included in eligible basis for existing buildings as described in I.R.C. § 42(d)(2).

(b) Tax Credit consultant's fees are included as part of the Developer Fee.

(d) Builder Profit, Overhead, and General Requirement Limits are calculated as a percentage of "Subtotal direct construction costs" as set forth in the table below:

**Builder's Profit, Overhead* and General
Requirements****

Percent of Costs

Project size in units	1-15	16-30	31-45	46-60	61+
Builder's Profit	6.0	5.75	5.50	5.25	5.00
Builder's Overhead	3.0	2.75	2.50	2.25	2.00
General Requirements	6.0	5.75	5.50	5.25	5.00
Total Maximum Percentage	15.0	14.25	13.5	12.75	12.0

Note: General Requirements include project-related site costs such as temporary fencing, utilities to the site during construction, job site supervisor, job site office and similar costs.

(e) Capitalized Reserve Minimums. The development budget shall include minimum capitalized reserves as follows:

(a) Rent-up Reserve. Minimum of six months of operating expenses plus six months of debt service.

(b) Operating Reserve. Minimum of six months of operating expenses plus six months of debt service.

(c) Replacement Reserve. Minimum of \$125 per unit for new construction and \$175 per unit for acquisition/rehabilitation projects.

6. Gap Financing & Layering Analysis

A. Gap Financing. ADOH may provide up to \$750,000 in Gap financing. Applicant's that request Gap Financing from ADOH must include a supplemental Gap application. Supplemental Gap applications may be downloaded from ADOH's website. Gap Financing applications should be included at Tab 3, behind Form 3.

B. Layering Analysis. Layering Analysis will be performed at any time Gap financing is requested. During the layering analysis review, ADOH may reduce credits or ADOH gap financing sources if it determines that the projects have been over sourced.

ADOH takes into account all public subsidies in its Gap Analysis. Federal regulations prohibit the layering, or excessive use, of Federal Subsidy for any project or activity. ADOH will coordinate with other public funding agencies that by regulation or practice undertake layering reviews of projects proposed to be funded with tax credits.

C. **Market Study Analysis**

ADOH may deny an application due to market conditions for the following reasons:

(1) Market Study does not comply with requirements in Exhibit L (Market Study Guide)

(2) Market Study fails to demonstrate strong new market demand for the type of low-income housing proposed.

(3) Market study fails to address all salient features of a project including but not limited to market rate units, multiple-use projects, commercial/retail or other non-affordable components, and location in a high crime area.

(4) Market study that fails to clearly describe the effective date or fails to specifically identify the age of all data and third-party information including but not limited to demographic information and rates of population change, rental market, and vacancy data, and the dates of any interviews.

(5) The number of units proposed in the application may adversely affect the financial viability of existing housing stock in the primary market area.

(6) Market study fails to objectively and explicitly justify the limits of the primary market area consistent with the requirements of the ADOH Market Study Guide.

(7) The market study fails to describe reasonable and appropriate ameliorating considerations for negative market information including but not limited to: vacancy rates that exceed underwriting standards, high property or violent crime rates, and excessive gross or net capture rates.

ADOH may determine the Market Demand Study supplied with the application to be unsatisfactory and may require additional information at the sole expense of the applicant. ADOH may verify information and conclusions in the Market Demand Study through alternative sources.

9. COMPLIANCE MONITORING

9.1 Project Compliance Monitoring

(A) ADOH is required to monitor and inspect projects for compliance with IRC Section 42, Treasury Regulation 1.42-5, the QAP, and the terms and provisions of the Extended Use Agreement. Generally, ADOH monitors to ensure: 1) Low-Income Units are rent restricted and occupied by qualifying tenants; 2) the property as a whole is suitable for occupancy; 3) the Owner is keeping and retaining the necessary records; and 4) the project meets the requirements (set-asides, income restrictions, rent skewing, affordability period, amenities and services, etc.) described in the application for tax credits.

(B) The IRC also requires that ADOH publish and institute monitoring procedures as part of the QAP. This compliance monitoring procedure applies to **all** projects to which ADOH has allocated tax credits. Accordingly, projects allocated tax credits since January 1, 1987 are subject to compliance monitoring except as specifically provided by the Code.

(C) Compliance Manual and Training Requirements

(1) Compliance Manual. ADOH has prepared a Low-Income Housing Tax Credit Program Compliance Manual for all Program participants. The manual describes ADOH's compliance monitoring procedures and reporting requirements. The manual includes samples of all annual reports, certifications, and other documents relevant to compliance monitoring.

(2). Twice-Annual Training. Twice-annual training is offered by ADOH on the **Compliance Manual** and owners'/managers' compliance responsibilities. Property manager must attend and be certified each annually on ADOH compliance monitoring. Property managers must submit a compliance training certificate with the project annual report to ADOH.

(D) The Code also allows ADOH to collect fees from owners to cover the cost of administering the compliance-monitoring program. Annual compliance monitoring fees are set forth in Section 6.10 above.

(E) **Registration with Social Serve.** Applicants who receive an Allocation must agree to register the units with socialserve.com and maintain such registration with socialserve.com for the duration of the Compliance Period.

9.2 Compliance Monitoring Requirements

The Owner of a qualified LIHTC project for which tax credits are allowable is required to comply with the following:

(A) Qualified Tenants. Low-Income Units must be occupied by tenants who meet income eligibility standards described by the Code. Tenants occupying Low-Income Units must be income qualified as required by the Code.

(B) Rent Restrictions. The rents charged for Low-Income Units must be restricted as required by the Code.

(C) Physical Condition Standards. The Owner must maintain the project property in compliance with physical conditions standards that include local building codes.

(D) Annual Report. By no later than March 15th of each year the Owner must submit the Annual Report that contains the following:

- (1) Payment of the Compliance Monitoring Fee described in Section 6.10;
- (2) The certifications described in Section 8.2(G) on a form prescribed by ADOH;
- (3) The ownership entity's financial statements (balance sheet, profit and loss, and cash flow statements) for the preceding year;
- (4) A rental schedule on a form prescribed by ADOH;
- (5) An applicable fraction per building on a form prescribed by ADOH;
- (6) A special commitments report on a form prescribed by ADOH;
- (7) The annual utility certification on a form prescribed by ADOH; and,
- (8) An Annual Project Data Report on a form prescribed by ADOH.

(E) Record Keeping. The Owner must maintain accurate records for each building in the low-income housing project. These records must include:

- (1) The total number of Residential Rental Units in the building, including the number of bedrooms and the square footage of each Residential Rental Unit.
- (2) The total number of Low-Income Units in the building.
- (3) The total number of occupants in each Low-Income Unit.
- (4) The rent charged on each Residential Rental Unit in the building, including any utility allowance.

- (5) The Low-Income Unit vacancies in the building.
- (6) The number and household eligibility criteria for all special set-aside units in the building.
- (7) The rentals of the next available units in each building including when and to who rented.
- (8) The character and use of the non-residential portion of the building that was included in the building's eligible basis under the Code (i.e., facilities that are available on a comparable basis to all residents and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).
- (9) Documentation regarding the eligible and qualified basis of each building as of the end of the first year of the tax credit period.
- (10) For each low-income household:
 - (a) Completed rental application, including the tenants' certification of assets.
 - (b) Tenant income certification form, including all required signatures.
 - (c) Documentation supporting each household's income certification (third-party verifications, asset certification, asset documentation and verification if more than \$5,000 in value).
 - (d) Documentation of student status.
 - (e) For Senior projects, the tenant file must include proof of date of birth and/or proof of the qualifying disability, if applicable.
- (11) Current-year utility allowance schedule.
- (12) Documentation from a medical doctor licensed in Arizona or prepared by a recognized social service or health service agency that qualify a tenant for low-income unit's set-aside for the Special Needs Population and any documentation that identifies any special accommodations that the tenant may require.

(F) Record Retention. Owners are required to keep all records for each building for a minimum of six years after the due date (with extensions) for filing the federal income tax return for that year. The Owner must retain the records for the first year of the credit period for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

(G) Certification. The Owner must certify the following, under penalty of perjury, at least annually through the end of the compliance period:

- (1) That the project complied with the requirements for special set-asides on which the Allocation was based (e.g., 20%, 30%, 40%, 50% AMGI), as applicable.
- (2) At least 20% of the Residential Rental Units in the project are both rent restricted and occupied by individuals whose income is 50 percent or less of the AMGI.

- (3) At least 40% of the Residential Rental Units in the project are both rent restricted and occupied by individuals whose income is 60 percent or less of the AMGI.
- (4) That the Owner/agent has received an annual **Tenant Income Certification** (commonly called the "TIC") form from each low-income resident and verifying documentation to support that certification.
- 8.2(G) (5) That the entire project/building was occupied by LIHTC residents and the Internal Revenue Service has or has not provided a waiver for the annual recertification of resident income.
- (6) That each Low-Income Unit was rent restricted as defined in the Code.
- (7) That all units in the project are for use by the general public and are not used on transient basis.
- (8) That each building in the project is in decent, safe, and sanitary condition and in good repair taking into account local health, safety, building codes, and HUD's Uniform Physical Condition Standards, see 24 CFR 5.703.
- (9) That all resident facilities included in the eligible basis of any building in the project were provided on a comparable basis without a separate fee to all residents in the project.
- (10) That there was no change in the applicable fraction of any building in the project (or, if there was a change, a description of the change). (Applicable fraction is defined as the percentage of qualified s in a building or the percentage of tax credit floor space to rentable floor space in a building, whichever is less.)
- (11) That there has been no change in any building's eligible basis under the Code (or that there has been a change, with an explanation of the change).
- (12) That an Extended Use Agreement is in effect for projects receiving Allocations on or after January 1, 1990.
- (13) That the project complied with the requirements of all federal or state housing programs (e.g., RD assistance, HOME, Section 8, tax-exempt financing), as applicable.
- (14) That, if the Owner received its Allocation set-aside for projects involving "qualified non-profit organizations," the non-profit entity materially participated in the operation of the development within the meaning of IRC Section 469(h).
- (15) That if a Low-Income Unit in the project becomes vacant during the year, reasonable attempts are made to rent that Unit or the next available Unit of comparable or smaller size to residents having a qualifying income before any unit in the project is rented to a resident not having a qualifying income.
- (16) That if the income of the residents of a Low-Income Unit increases above 140% of the limit allowed in the Code, the next available Unit of comparable or smaller size shall be rented to residents having a qualifying income.
- (17) For buildings with four units or less, whether any of the units in the building were occupied by the Owner or a Person related to the Owner for the preceding year.
- (18) Whether, for the preceding year, the project was the recipient of a federal grant or other Federal Subsidy that would cause a reduction in eligible basis.

(19) That the state or local government unit responsible for making building code inspections did not issue a report of a violation for the project for the preceding 12 month period.

(20) That the Owner has not refused to lease a Unit to an applicant due to the applicant holding a HUD Section 8 voucher or certificate.

(21) That the project has received no finding of discrimination under The Fair Housing Act (an adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a Federal court).

(22) That the Owner has not evicted or terminated the tenancy of any existing tenant of any Unit (other than for good cause) or increased the gross rent with respect to a Unit not otherwise permitted by

(H) Reviews and Inspections. Before ADOH issues the IRS Form 8609 or the end of the second calendar year following the year the last building in a project is Placed in Service, whichever is first, ADOH conducts on-site inspections of all new buildings in the project and, for at least 20% of the project's Low-Income Units, ADOH inspects the units and reviews the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

(1) ADOH conducts on-site inspections of all buildings in each low-income housing project at least once every three years, beginning after the Placed-in-Service date. For at least 20% of the project's Low-Income Units selected by ADOH, ADOH inspects the units (including all vacant units) and review the low-income certifications, the documentation supporting such certifications, and the rent record.

(2) ADOH follows HUD's inspection protocol under 24 CFR § 5.703 in conducting physical inspections. ADOH selects units for physical inspection and review files only at the time of the on-site visit.

(I) Miscellaneous Owner Responsibilities. In addition to the responsibilities described in this Section, the Owner must:

(1) Notify ADOH prior to any change in ownership.

(2) Notify ADOH of any change in the management agent.

(3) Notify ADOH of any noncompliance with IRS requirements.

(4) Perform annual tenant recertifications as required by the Code.

(5) Establish the utility allowance as required by Treas. Reg. 1.42-10.

(6) Comply with the program requirements relating to the source of any funding to the project and the Fair Housing Act (42 U.S.C. § 3601 *et seq.*), the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).

(J) Liability. The Owner is responsible for compliance with the requirements of the Code and the QAP. ADOH shall not be liable to third parties for claims arising from an Owner's failure to comply with the requirements of the Code or the QAP.

(K) Correction of Non-Compliance Condition.

(1) ADOH shall provide written notice of noncompliance to the Owner if:

(a) ADOH has not received a complete Annual Certification Report with attachments by the due date.

(b) ADOH finds that the project is out of compliance with any of the provisions of the Code or the terms and provisions of Extended Use Agreement.

(2) The Owner shall have 30 calendar days from the date of notice of noncompliance to correct the Annual Certification Report. The Owner shall have 60 calendar days from the date of notice of noncompliance to correct other issues. ADOH may grant an extension of up to 120 calendar days to complete corrective action if the Owner demonstrates good cause for the extension to the satisfaction of ADOH.

(3) ADOH is required to file IRS Form 8823, "Low- Income Housing Credit Agencies Report of Noncompliance," with the IRS within 45 calendar days of the end of the allowable correction period. ADOH must report all noncompliance issues whether corrected or not. ADOH may explain the nature of the noncompliance or failure to certify and state whether the noncompliance has been corrected. The IRS, not ADOH, shall make any determinations as to the applicability of recapture penalties.

(4) In the event that the owner to take corrective action within the cure period described in Section 8.2(K) (2), ADOH may commence legal action to enforce the duties and obligations of the Owner described in the Extended Use Agreement.

(5) ADOH must perform inspections of the project and perform on-site audits of the resident certification forms and supporting documentation throughout the first 15 years of the compliance period and any agreed-upon extended compliance period. ADOH shall notify the Owner in writing of the scheduling of any such inspection or audit.